

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.360 OF 2015
IN
WRIT PETITION NO. 546 OF 2014

Abdul Rehman Tej Mohammad Choudhari .. Applicant.

In the matter between

Abdul Rehman Tej Mohammad Choudhari .. Petitioner

vs.

The State of Maharashtra and ors. .. Respondents

Mr. S.G. Deshmukh i/b Mr. Abhijeet Kandarkar for the Applicant/Petitioner.

Mr. S.D. Rayrikar, AGP for Respondent Nos.1 to 3.

Mr. Zaid Ansari i/b Mr. Ashish Mehta for Respondent No.5.

Mr. L. S. Deshmukh for Respondent No.6.

CORAM : M. S. SONAK, J.

DATE : 12 FEBRUARY, 2015.

P.C. :-

1] This Civil Application has been taken out in a petition, which has been disposed of on 9 September 2014.

2] By the order dated 9 September 2014, the Sub-Divisional Officer (SDO) was directed to dispose of the petitioner's pending appeal, in the matter of encroachment upon the suit property. It is pertinent to record that the applicant/petitioner himself admits that he is an encroacher upon the suit property right from the year 1983. The submission is that since encroachment is continued from the year 1983, some indulgence is required to be extended.

3] Be that as it may. In pursuance of the order dated 9 September 2014, if the decision of the appeal is adverse to the interest of the petitioner, same shall not be given effect for a period of two weeks thereafter from the date of service of such decision. During the period of these two weeks, the petitioner states that he had applied to the Minister for regularization of the encroachment. A submission is that pending consideration of regularization proceedings, the interim protection ought to be given. In my judgment, this application, is totally misconceived. In the first place, such application has been taken out in a petition which is already disposed of. Secondly, according to the petitioner, the petitioner has an alternate remedies, by way of either challenging the order made by the SDO or by instituting a Civil Suit.

4] Considering the background and the submission that the petitioners is admittedly an encroacher right from the year 1983, no case is made out for extending indulgence of an interim protection any further.

5] Civil Application is, accordingly, disposed of.

(M. S. SONAK, J.)