

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7027 OF 2015

Amrik Singh Alag and another .. Petitioners

Versus

Rastriya Chemicals & Fertilizers Ltd. and others .. Respondents

**Mr. Yahya Goghari a/w Mr. Ruchit Dave, Mr. Yohaana Rubens i/by Vigil
Juris, for the Petitioners.**

**Mr. Anoshak Daver a/w Mr. Rushabh Sheth a/w Pooja Batra i/by M. S.
Bodhanwalla & Co., for the Respondent No.1.**

CORAM : R.M. SAVANT, J.

DATE : 3rd AUGUST, 2015

PC.

1. The Writ Jurisdiction of this Court is invoked against the order dated 13.06.2015 passed by the Estate Officer, by which order the Estate Officer in view of the pendency of the application for stay filed by the Petitioners in the City Civil Court has not decided the application for stay filed by the Petitioners before him. It is required to be noted that the Petitioners have filed a suit in the City Civil Court being Suit No.4575 of 2013, in which suit the substantive relief sought is by way of prayer clause (a) which reads thus :-

“(a) That this Hon'ble Court be pleased to grant a declaration that the Plaintiffs are in legal occupation, possession and peaceful enjoyment of the Suit Property in

view of the Deed of Conveyance dated 25th August, 2010 read with Deed of Rectification dated 9th February, 2012 (**Exhibit "A"**) and the Defendants have no right, title or interest in the Suit Property;"

2. In the said suit, the Petitioners have filed a notice of motion for interim reliefs, in which the relief sought by the Petitioners reads thus:-

"(a) That pending the hearing and final disposal of the present suit, the Defendants be restrained by an order and injunction of this Hon'ble Court from prosecuting and/or pursuing the eviction proceedings initiated by the Learned Estate Officer under sub-sec (1) and clause (b)(ii) of sub-sec (2) of sec 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and staying the proceedings in Petition No.EO/PP/7/2013 filed by the Defendants (Applicants therein) for evicting the Plaintiffs herein from the survey no.76 Hissa No.2(pt) of Village Borla, Taluka Kurla, Mumbai Suburban District (MS) corresponding to CTS No.676 (pt), admeasuring 37 Gunthas, 4 Annas in pursuance of sec 41(a) and 41(b) of the Specific Relief Act, 1963 in order to prevent multiplicity of proceedings."

3. The Petitioners have been issued notice under the Public Premises (Eviction of Unauthorized Occupants) Act, pursuant to which the notice, proceedings have commenced before the Estate Officer. In view of the fact that the Petitioners have filed a suit claiming the substantive relief which has been adverted to herein above, the Petitioners filed an application for stay before the Estate Officer, thereby seeking stay of the proceedings before him. The Estate Officer having regard to the fact that the Petitioners have filed an application before the City Civil Court for stay of the proceedings before him which is pending has refused to consider

the application for stay filed by the Petitioners. In the light of the order passed by the Estate Officer, the Learned Counsel for the Petitioners was given an option to elect for one of the applications for stay i.e. either prosecute the application i.e. the Notice of Motion filed before the City Civil Court or the application filed for stay before the Estate Officer. However, the Learned Counsel for the Petitioners has refused to choose one or the other. The Learned Counsel appearing for the Respondent No.1 was also amenable to the said suggestion. In my view, therefore, in the light of the reasons mentioned in the impugned order, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed.

[R.M. SAVANT, J]