

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1796 OF 2016

Shivaji S/o Suppad Salunke .. Petitioner

Vs.

The State of Maharashtra and others .. Respondents

Mr. P.F. Patni, Advocate for the petitioner
Mr. S.B. Pulkundwar, AGP for the respondent/State
Mr. G.M. Patel, Advocate for respondent no.3
Mr. S.R. Choukidar, Advocate for respondent nos.4,5,7,9 to 11

CORAM : K.K. SONAWANE, J.

DATE : 22/08/2016

ORAL ORDER :

Heard learned counsel for the petitioner and learned counsel for the respondents extensively.

2. It has been contended that the petitioner is the owner and in possession of the land gat nos. 23 and 24 located at village Deolana Budruk, Tq. Khultabad, Dist. Aurangabad. The respondents are residing in gat no. 31, which is a gairan land. Respondents have a road for ingress and egress to their residence abutting to the land of the petitioner. It has been alleged that the respondents are trying to create new way from the contentious land of the petitioner. Therefore,

petitioner preferred civil litigation, inter-alia application for interim relief to restrain the respondents not to create a new way. The learned trial Court, after hearing both sides, was pleased to grant interim relief in favour of petitioner. Being dissatisfied with the said order, respondents approached to the appellate forum and preferred Miscellaneous Civil Appeal, which came to be allowed and the order of interim relief granted by the learned trial Court in favour of the petitioner came to be set aside. Being aggrieved with the impugned order of learned appellate forum, the petitioner preferred the present writ petition.

3. During the course of hearing, both the counsel agreed for maintaining the status-quo instead of adjudication of the present petition on merit. They have requested to direct the learned trial Court for expeditious hearing on merit into the matter i.e. Regular Civil Suit No.857 of 2015. Admittedly, the matter in issue in the petition, is required to be dealt with on the anvil of merit. It is true that there was a panchanama drawn by Revenue authorities on 30/09/2015

but the same could not be considered as conclusive proof. The remedies under the Maharashtra Land Revenue Code are available to the Revenue authorities to resolve such types of issues. However, the matter is sub-judice before the learned trial Court.

4. In such conspectus of the matter, I find it justifiable to direct both the parties to maintain status-quo till the final decision of the Regular Civil Suit No. 857 of 2015 pending before the learned Civil Judge, Senior Division at Aurangabad on merit. It would also be appropriate to issue directions to the learned trial Court for expeditious adjudication of Regular Civil Suit No. 857 of 2015 on its own merit, preferably within six (6) months from the receipt of this order. Parties to take note about the same and co-operate to the learned trial Court.

5. In the above terms Writ Petition stands disposed of accordingly. No order as to costs.

[K.K. SONAWANE]
JUDGE

arp/