

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4715 OF 2015

SHAIKH ISMAIL SHAIKH IBRAHIM AND OTHERS
VERSUS
SHAIKH ISAK SHAIKH VAZIR AND OTHERS

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Advocate for the petitioners : Mr. R. J. Nirmal
Advocate for respondent Nos. 1 to 4 : Mr. B. N. Patil
AGP for respondent No. 5 : Mr. P. N. Kutti

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CORAM : V. K. JADHAV, J.

DATED : 04th FEBRUARY, 2016

PER COURT :-

1. By consent of learned counsel for the parties, heard finally.
2. Petitioners/original plaintiffs have filed application Exh.33 for grant of Police aid. Learned trial court has rejected the said application by order dated 31.03.2015 passed below Exh.33 in Regular Civil Suit No. 185 of 2012.
3. Learned counsel for the petitioners submits that, on 09.07.2014, when petitioners/plaintiffs were trying to prepare suit property for cultivation, the respondents/defendants abused and threatened them. Even, the petitioners lodged report at Police Station, Deogaon Rangari however, no action was taken. Learned counsel submits that even if the application Exh.33 is allowed, no prejudice is likely to be caused to

the respondents/defendants.

4. Learned counsel for respondents submits that Police aid is granted in rare cases. Learned counsel submits that petitioners/plaintiffs filed an application to put respondents/defendants in civil prison as they have committed breach of temporary injunction. However, the said application is not prosecuted. Learned counsel, in order to substantiate his submissions, places reliance on the decision in the case of ***Nirabai J. Patil vs. Narayan D. Patil***, reported in ***2004(1)Mh.L.J. 1058***.

5. It appears that this order came to be passed on 31.03.2015 when the petitioners/plaintiffs have raised the issue of obstruction by respondents/defendants on 09.07.2014. In fact, the case for filing writ petition has been rendered infructuous due to passage of time. Furthermore, learned counsel for respondents has rightly relied upon the decision in the case of ***Nirabai*** (*supra*), wherein, this Court has taken a view that the court has power to pass order to make Police help available if facts of the case warrant passing of such order and the said powers are to be exercised with caution and only after the court is fully convinced of existence of grave situation warranting exercise of said power. In the case in hand, there is no evidence of existence of grave situation warranting exercise of said power. Learned Judge of the trial court has rightly rejected the application.

The impugned order calls for no interference. There is no substance in the writ petition. Hence, the writ petition is hereby dismissed. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

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