

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.841 OF 2016

Shri Ramchandra Mahadeo Patil.] ... Petitioner

Versus

Ld. Additional Commissioner of Pune Division]
and Ors.] ... Respondents

Mr. M. J. Patil for Petitioner.
Mrs. Vaishali Nimbalkar, A.G.P, for Respondent Nos.1 to 4.
Mr. Bhushan Walimbe for Respondent Nos.5 to 9 and 11 to 14.
Mr. Ashish Pawar for Respondent Nos.15-a and 15-b.

CORAM :- M. S. SONAK, J.
DATE :- FEBRUARY 04, 2016

P. C. :-

1. The challenge in this petition is to the order dated 12/01/2016, by which the Additional Commissioner, Pune, has declined to grant the petitioner any interim relief during the pendency of the revision petition before him.

2. By the revision petition instituted before the Additional Commissioner, the petitioner challenges orders made by the Sub-Divisional Officer and the Additional Collector concurrently holding that the petitioner is an encroacher in respect of the suit property.

3. Although, it is true that the impugned order does not contain any detailed reason, nevertheless, there is a subsequent development, on the basis of which, there is no reason to interfere with the impugned order made by the Additional Commissioner. The petitioner, had instituted Regular Civil Suit No.222 of 2015 before the Civil Judge Senior Division at Islampur seeking injunction and mandatory direction on the basis that the petitioner is not an encroacher in respect of the suit property. Therein, the petitioner applied for interim injunction, once again restraining disturbance of his position over the suit property. The Civil Judge Senior Division at Islampur, by order dated 21/01/2016, has declined such interim relief to the petitioner. It is settled position in law that the jurisdiction exercised by the Revenue Authority is summary in nature unlike the jurisdiction exercised by the Civil Court. In fact, the Civil Court is the appropriate forum in the matter of determination of issues of title as well as to a certain extent, possession. Once the Civil Judge has declined interim relief to the petitioner, the petitioner cannot insist upon interim relief by the Additional Commissioner, particularly when both the Sub-Divisional Officer and the Additional Collector have concurrently held that the petitioner is an encroacher in respect of the suit property. There is accordingly no error of jurisdiction. This is not a case where the Additional Commissioner has exercised arbitrary or unreasonable powers. There is accordingly no case made out to interfere with the impugned order.

4. This petition is therefore dismissed. The ad-interim order granted earlier is vacated.

5. It is, however, clarified that the observations made herein are only *prima-facie* and therefore neither the Civil Court nor the Additional Commissioner in deciding the revision petition need be influenced by such observations.

6. The Additional Commissioner is directed to dispose of the petitioner's revision petition expeditiously.

(M. S. SONAK, J.)