

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 6412 of 2016

1. Rangrao S/o Champatrao Deshmukh,
age 47 years occupation agriculture
R/o Devthana Tal. Bhokar District Nanded
2. Kailash S/o Bhagwanrao Deshmukh,
age 48 years occupation & R/o as above. ...**PETITIONERS**

VERSUS

The Municipal Council, Bhokar,
through Chief Officer,
Municipal Council, Bhokar Dist. Nanded. ...**RESPONDENT**

*Mr R.N. Dhorde, Senior Counsel holding for Mr V.S. Kadam,
Advocate for petitioners
Mr R.S. Shinde, Advocate for respondent.*

CORAM : NITIN W. SAMBRE, J.

DATE : 27th November, 2017

ORAL ORDER :

Heard Shri Dhorde, learned Counsel for the petitioners
and Shri Shinde, learned Counsel for respondent.

2. In suit for injunction based on title, petitioners sought temporary injunction. The Trial Court and the Appellate Court refused the same. However, the fact remains that the status-quo order passed by the Court below dated February 4, 2015 is in

operation till this date.

3. My attention is invited to the application for amendment moved by present petitioners/plaintiffs thereby amending the pleadings incorporating dimensions and boundaries of the property in dispute. According to learned Counsel for the petitioners, both the Courts below have rejected the prayer for grant of injunction as boundaries of the disputed property were not incorporated and, as such, disputed property could not be identified. In the said background, prayer is made that the petitioners be permitted to move the learned Trial Court, afresh, in view of the change in circumstances viz. grant of amendment on November 18, 2017 seeking temporary injunction.

4. Learned Counsel for the respondent in view of subsequent development though has not objected for grant of such liberty to move an application for injunction, however, would try to impress upon this Court to submit that the public body viz. Municipal Council has developed the property in question at public costs and after the development is over, an objection is raised by the petitioners to the auction of the property. According to him, the respondent be permitted to continue with the auction subject to outcome of the suit property.

5. Proposal qua auction of the property is opposed by the learned Counsel for the petitioners.

6. Be that as it may, it is required to be noted that status-quo is in operation since 4th February 2015 till this date.

7. Though the status-quo is not qualified, however, fact remains that the Trial Court permitted amendment of the plaint on November 18, 2017.

8. In the aforesaid backdrop, without disturbing orders as are passed by the Courts below, liberty is granted to the present petitioners to approach, afresh, before the Trial Court for grant of injunction.

9. If such an application is moved, it is expected of the Trial Court to decide the same expeditiously considering the fact that the auction of the suit property is withheld because of the order of the status-quo. The Trial Court shall expeditiously decide such application within a period of four weeks from the date of its filing as respondent/Corporation has assured that it shall file its reply to such an application, within two weeks from the date it will be tendered to them.

10. It is expected of the Trial Court to decide such application afresh.

11. Needless to clarify that this Court has not examined merits of the matter.

12. Present status-quo shall remain in operation for a period of two weeks from today, the period within which petitioner are at liberty to move such an application.

13. Needless to clarify that in case the application is not moved, the respondent will be at liberty to continue with the auction proceedings.

(NITIN W. SAMBRE, J.)

pjm