

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1) WP NO.398/2016

902 WRIT PETITION NO. 398 OF 2016

SAVITA DAULAT AMRAO AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Mr. Shinde Chandrakant K.
AGP for Respondent State: Mrs. R.P.Gour
Advocate for Respondent No.3 : Mr. Shah J.R.,
Advocate for Respondent Nos. 6, 7 and 8 : Mr. M.G.Mustafa

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CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: March 23, 2017

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PER COURT :-

1. It is informed that the respondents have presented a suit bearing Regular Civil Suit No.406/2013, claiming injunction relating to the property which is subject matter of dispute in the instant petition.

2. The petitioners herein are the party defendants impleaded in the said suit. The petitioners have presented a written statement in the suit and the contention raised in the instant petition is the defense raised in the written statement presented to the Civil Court in a suit filed by the respondents. The issue relating to the title of the property and entitlement of the plaintiffs / respondents to claim interest therein would be an issue required to be dealt with by the trial Court.

3. Since the grievance raised in the instant petition is

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covered by the civil suit presented to the Civil Court, it would be desirable not to cause interference in exercise of jurisdiction under Article 226 of the Constitution of India.

4. The petitioners claim that, in fact, the Municipal Corporation has entitlement in relation to the property, and the Corporation is not impleaded as party to the suit. It would be open for the petitioners to raise appropriate contentions in the suit presented by the plaintiffs. It was also permissible for the petitioners to claim a relief in the suit presented by the defendants by resorting to relevant provisions of Code of Civil Procedure.

5. So far as prayer clause (C) recorded in the writ petition is concerned, it would be open for the petitioners to independently urge the Collector to hold an enquiry and to take appropriate legal action. With liberty to the petitioners to avail of the remedies as are available in law and with further liberty to raise appropriate contentions before appropriate forum, as permissible in law, the Writ Petition stands disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

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