

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3958 OF 2017

Krishi Gau Seva Samiti, Vani ... Petitioner
Vs.
State of Maharashtra and others ... Respondents

WITH
CONTEMPT PETITION (ST.) NO.11812 OF 2017

Krishi Gau Seva Samiti, Vani ... Petitioner
Vs.
Hiraman Parvat Mondhe and others ... Respondents

Mr. P. B. Shah for Petitioner in both the Petitions.
Mr. S. D. Rayrikar, AGP for Respondents No.1 and 9 to 12 in W.P.No.3958 of 2017 and for Respondent No.7 in C.P.(St.) No.11812 of 2017.
Mr. S. P. Dighe for Respondents No.2 to 7 in W.P.No.3958 of 2017 and for Respondents No.1 to 6 in C.P.(St.) No.11812 of 2017.
Mr. Girish Agrawal for Respondent No.8 in W.P.No.3958 of 2017.

CORAM : R. G. KETKAR, J.
DATE : APRIL 25, 2017

P.C. :

Heard Mr. Shah, learned Counsel for petitioner in both the Petitions, Mr. Rayrikar, learned AGP for respondents No.1 and 9 to 12 in W.P.No.3958 of 2017 and for respondent No.7 in C.P.(St.) No.11812 of 2017, Mr. Dighe, learned Counsel for respondents No.2 to 7 in W.P.No. 3958 of 2017 and for respondents No.1 to 6 in C.P.(St.) No.11812 of 2017 and Mr. Agrawal, learned Counsel for respondent No.7 in W.P.No. 3958 of 2017 at length.

2. Writ Petition takes exception to the order dated 24.01.2017 passed by the Additional Commissioner, Nashik Division, Nashik in RTS/Revision/54/2016 as also the order dated 22.01.2016 passed by the Additional Collector, Nashik in RTS/Appeal/347/2015 and the order

dated 07.08.2015 passed by the Sub-Divisional Officer, Dindori in RTS/Appeal/11/2015. Mr. Shah submitted that aggrieved by these decisions, petitioner has instituted Revision Application No.2651 of 2017 before the Hon'ble Minister for Revenue and Forest, State of Maharashtra and the said Revision is pending. In the alternative, he submitted that this Court may be pleased to direct respondent No.1 to decide the revision application in a time bound manner.

3. Mr. Shah submitted that during the pendency of the revision application, by notice dated 29.03.2017, Tahsildar, Dindori called upon the petitioner to handover possession on 05.04.2017 at 11.00 a.m. He submitted that petitioner is a Public Trust registered under the provisions of the Maharashtra Public Trusts Act (for short 'Act') and is running panzarapol on the land bearing Gat No.496/1A of Village Kasabe Vani, Taluka Dindori, District Nashik. He submitted that if the possession is taken over, the Revision Application preferred by the petitioner on 24.01.2017 will be rendered infructuous.

4. Mr. Shah submitted that as Hon'ble Minister was not available and the petitioner was called upon to handover possession on 05.04.2017, he moved this Court on 04.04.2017 for urgent relief. After hearing Mr. Shah and Mr. Rayrikar, at the request of Mr. Rayrikar, Petition was adjourned to 11.04.2017 and till next date, ad-interim order in terms of prayer clause (c) of the Petition was granted. The orders passed by the Sub-Divisional Officer, Additional Collector and Additional Commissioner were stayed. All the parties, including Tahsildar, were directed to act upon the authenticated copy of the order. Petition was thereafter heard on 11.04.2017 and it was adjourned to 12.04.2017 so as to enable Mr. Rayrikar to take instructions as to within what time, revision application will be decided. Ad-interim order was

ordered to continue till next date. On 12.04.2017, matter was adjourned to 17.04.2017 at the request of the respondents and ad-interim order was continued till next date. On 17.04.2017, due to paucity of time, the matter was adjourned to 12.06.2017 and in the meantime, ad-interim order, if any, was ordered to continue.

5. Mr. Shah submitted that despite the stay granted by this Court, respondents No.1 to 6 in Contempt Petition forcibly entered in the suit property and damaged the property of the petitioner. The cows and bullocks were mercilessly beaten and were tried to be removed from Gaushala. Respondents No.1 to 6 also locked the main gate of Gaushala and restrained the employees of the petitioner from entering in Gaushala. Respondents are not allowing petitioners to feed animals. Though the order was shown to the respondents No.1 to 6, they continued their high-handed action showing utter disregard to the order of this Court. Petitioner, therefore, instituted Contempt Petition (St.) No.11812 of 2017 for initiating action against respondents No.1 to 6 under the contempt of Courts Act, 1971 for committing contempt of the order dated 04.04.2017, which order was continued from time to time. Mr. Shah has invited my attention to photographs at pages 157 and 158 as also N.C. Complaint dated 21.04.2017 lodged by the petitioner at Vani Police Station.

6. Mr. Dighe appearing on behalf of respondents No.1 to 6 in Contempt Petition states that respondents No.1 to 6 deny the contentions raised in paragraph 2(gg) and submits that respondents No.1 to 6 have not put up lock on the main gate of Gaushala as alleged by the petitioner. Respondents No.1 to 6 have no objection for removal of the lock.

7. Mr. Rayrikar has tendered photocopy of the communication dated 10.04.2017 addressed by the Desk Officer, Revenue and Forest Department, Government of Maharashtra to him informing him that the revision is fixed for hearing on 26.04.2017. Upon taking further instructions, he states that the revision application will be decided within six weeks from 26.04.2017.

8. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. As noted earlier, petitioner has instituted revision application No.2651 of 2017 before the State Government challenging orders dated 24.01.2017, 22.01.2016 and 07.08.2015 and the same is pending. As the Hon'ble Minister was not available and the petitioner was served with the notice calling upon it to handover possession on 05.04.2017, this Petition was moved on 04.04.2017. By order dated 04.04.2017, ad-interim order in terms of prayer clause (c) was granted and the Petition was thereafter heard from time to time and ad-interim order was continued. The matter was adjourned so as to enable Mr. Rayrikar to take instructions within what time Revision Application or Stay Application itself will be disposed of. Mr. Rayrikar submitted that Revision Application will be decided within six weeks from 26.04.2017.

9. As the Revision Application is pending before the State Government as also having regard to the alternate prayer made by the petitioner in terms of prayer clause (b), in my opinion, ends of justice will be served by requesting the Hon'ble Minister to decide the Revision Application within six weeks from 26.04.2017. Pending the hearing of Revision Application, the orders dated 24.01.2017, 22.01.2016 and 07.08.2015 impugned in this Petition are also required to be stayed as if the possession is taken over, the Revision Application preferred by the

petitioner will be rendered infructuous. Hence, the following order:

- a. The Hon'ble Minister is requested to decide the Revision Application within 6 weeks from 26.04.2017 and the stay shall remain in force during the pendency of the Revision application and for a further period of two weeks from the receipt of the intimation of the order;
- b. The order shall be pronounced in the presence of the Advocates appearing for the parties by giving suitable date so as to enable the Advocates to take copies of the order;
- c. All contentions of the parties on merits are expressly kept open;
- d. Writ Petition is disposed of in the aforesaid terms with no order as to costs.

10. Having regard to the statement made by Mr. Dighe that respondents No.1 to 6 have not done any overt act as also they have no objection for removal of lock, no case is made out for taking any action against respondents No.1 to 6 under the Contempt of Courts Act, 1971. Petitioner will be at liberty to remove the lock put up on the main gate. Contempt Petition is accordingly disposed of. Order accordingly.

(R. G. KETKAR, J.)

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