

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.10715 OF 2018

(Devidas Somnath Pastapure, through LR's and others Vs. Chief
Officer, Municipal Council, Udgir)

IN R.C. NO.364 OF 2016

WITH WRIT PETITION STAMP NO.33813 OF 2015

WITH

CIVIL APPLICATION NO.10720 OF 2018

IN R.C.NO.282 OF 2016

WITH WRIT PETITION STAMP NO.33810 OF 2015

Mr.G.R.Syed h/f Mr.Q.R.Syed, Advocate for the applicants.
Mr.P.V.Barde, Advocate for the respondent.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 05/10/2018

PER COURT :

1. I have heard the learned Advocates for the respective sides.
2. Learned Advocate for the Municipal Council has strenuously opposed this civil application and prays for its rejection with heavy costs. Learned Advocate for the applicants submits that it was his duty to remove the office objections and the clients are not expected to do so. If costs are imposed, he would have to shoulder the burden. He, however, concedes that the learned Advocate appearing for the petitioners in the writ petition was someone else.

3. Considering the above, both these civil applications are allowed by imposing costs of Rs.250/- to be paid by each of the applicants in each of these two civil applications and by the consent of the respondent, the amount shall be deposited with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital, Aurangabad Dengi Samiti**”) on or before 20/10/2018. The receipt of such deposit shall be produced before the Trial Court on or before 03/11/2018, failing which, the Trial Court shall pass necessary order as it thinks fit.

4. By the consent of the parties, Writ Petition Stamp Nos.33813/2015 and 33810/2015 are restored forthwith and heard. I have considered the grounds formulated by the petitioners and have perused the impugned orders dated 03/01/2018 passed by the Trial Court refusing injunction and dated 14/10/2015 passed by the Appellate Court dismissing the Misc.Appeals preferred by the petitioners / plaintiffs.

5. Notwithstanding the strenuous submissions of the learned Advocate for the petitioners, I find that both the Courts below have assigned proper reasons by considering the relevant factors and have refused injunction to the petitioners in view of the fact that the respondent / Municipal Council has initiated steps for removal of encroachment allegedly caused by the plaintiffs. So also, the pending suit is more than 5 years old and in my view, the same could be expedited as a public body is the defendant and steps are initiated for removal of purported encroachments.

6. As such, both these petitions are disposed of without causing interference in the impugned orders.

7. For the reasons recorded in the foregoing paragraphs, the Trial Court shall endeavour to decide RCS No.137/2013 as expeditiously as possible, and in any case on or before 30/09/2019.

(Ravindra V.Ghuge, J.)