

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

CRIMINAL WRIT PETITION NO. 1230 OF 2017

Gajanan B. Hemke,
aged 32 years, Occ. Advocate,
R/o. 174, Janki Nagar, Uday Nagar
Square, Ring Road, Manewada,
Nagpur

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PETITIONER

...VERSUS...

1] Naresh Shyamrao Sarve,
aged 40 years, Occ. Agriculturist,
R/o. Muodi (Rehab), Bhandara,
Distt. Bhandara.

2] The State of Maharashtra,
through Police Station Officer,
Police Station, Bhandara,
Bhandara

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RESPONDENT

Shri R.R.Vyas, Advocate for petitioner.
Shri S.S.Ghate, Advocate for Respondent No.1
Shri M.J.Khan, APP for Respondent No.2

CORAM: R. K. DESHPANDE, AND

M.G.GIRATKAR, JJ.

DATE : 23.04.2018

ORDER (P.C)

1] We are surprised to find the operative portion of
the order dated 08.07.2016 passed by one Shri Siddharth K.
Sable, the learned 4th Joint Civil Judge, Junior Division,

Bhandara, below Exh.74 and 75 in Regular Civil Suit No.113 of 2013, which is reproduced below.

“1. Both the parties are directed to maintain Status-quo in respect of the suit property, till filing of say by the defendant no.1 or till further order.

2. Both the parties to take note of the same.”

2] We are neither on the justification for passing the order of status-quo nor we are entering into the controversy of the case on merits also. We are on the terms employed in passing the interim order. The Court has directed both the parties to maintain status-quo in respect of the property “till filing of say by the defendant no.1 or till further order”. If the defendant files his say, whether the status-quo would continue thereafter, is the question. If the status-quo does not continue further, then the further addition “ or till further order” becomes useless. If the status-quo continues even after filing of say, the earlier part i.e. “till filing of the say by the defendant no.1” becomes useless. This creates uncertainty and it becomes difficult to see the compliance of such orders.

3] The learned Judge should understand what he writes, how he passes an order and whether the order passed can be effectively implemented. The order of status-quo may

operate effectively in a given facts and circumstances of the case, but invariably it creates complications in its implementation. As far as possible, therefore, passing the order of status-quo needs to be avoided unless it is deemed fit in the facts and circumstances of the case.

4] Any interim order including that of injunction, prohibitory or mandatory in nature, passed *ex-parte*, should either be termed as "ad-interim order" or "till the next date" or "until further orders" whichever of such terms chosen to pass an order. The passing of an interim order, "till filing of the say by the defendant" creates complications, as it is possible that say may be filed or given behind the back of the party in whose favour the interim order is passed and in such situation, without his knowledge, the order shall stand vacated. Such order also creates complications and uncertainty. Adding to it "or till further order" adds fuel in fire of complications. If two views are possible of interpretation of the terms of the interim order, it gives leverage to the other side to disobey the order or to act in breach of it, by taking unfair advantage of such terms of the order. It gives rise to multiplicity of fruitless litigations, wasting the time of the Court. The Court, therefore, should be conscious of such position while

passing such orders.

4] This order be communicated to the concerned Judge by the Registrar (Judicial) of this Court. It should also be brought to the notice of all Judicial Officers in subordinate judiciary in the entire State of Maharashtra and it should also be brought to the notice of all the Hon'ble Judges of this Court, so that they are aware of such instructions issued to the subordinate judiciary.

5] The trial Court is directed to decide the application for grant of injunction. However, while considering such application, the Court shall not take into consideration the revenue record in respect of which the offences are registered against the parties concerned. The application for injunction be decided within a period of eight days from today.

6] The parties to appear before the trial Court on tomorrow i.e. on 24.04.2018.

7] The learned Judge shall hear the parties on that date without granting any adjournment and pass such final order on the application for grant of injunction, as he deems fit and proper.

8] So far as the merits of this writ petition are

concerned, we are not inclined to entertain this petition to quash registration of first information report. The same is dismissed with liberty to the petitioner to apply for discharge if the final report is filed against the petitioner. All questions urged in this petition are left open.

9] Steno copy of the order be supplied to the parties to act upon.

JUDGE

JUDGE

Rvjalit