

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

CRIMINAL APPLICATION NO. 1293 OF 2018

- 1] Prakash S/o Dagu Karmase,
Age-67 years, Occu- Agri,
- 2] Chandrakant S/o Dagu Karmase,
Age-64 years, Occu- Agri,
- 3] Sunil S/o Dagu Karmase,
Age-60 years, Occu- Agri,
- 4] Sagar S/o Prakash Karmase,
Age-32 years, Occu- Agri & Business,
- 5] Sumit S/o Sunil Karmase,
Age-28 years, Occu- Advocate,
- 6] Samir S/o Govind Karmase,
Age-26 years, Occu- Advocate,
- 7] Onkar S/o Dattatrya Karmase,
Age-21 years, Occu- Education,
- 8] Swapnil S/o Ashok Karmase,
Age-29 years, Occu- Service & Agri,
- 9] Sachin S/o S. Lute,
Age- Major, Occu- Agri,

All R/o- Trishul Nagar, Rahata,
Tq.- Rahata, Dist.- Ahmednagar.

... APPLICANTS

VERSUS

- 1] The State of Maharashtra,
For Rahata Police Station,
Tq.- Rahata, Dist.- Ahmednagar.

2] Bhausahab S/o Gayaji Bhujbal,
Age- 54 years, Occu- Agri,
R/o- Near Navnath Temple, Rahata,
Tq.- Rahata, Dist.- Ahmednagar. ... **RESPONDENTS**
(Resp. No. 2 is Orig. Complainant)

...
Mr. Amol S. Gandhi, Advocate for Applicants.
Mrs. V. N. Patil (Jadhav), APP for Respondent No.1 / State.
Mr. D. A. Bide, Advocate for Respondent No.2.
...

CORAM : **T. V. NALAWADE &
K. K. SONAWANE, JJ.**

DATE : 31st July, 2019.

JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. By consent, heard
both the sides for final disposal.

2 The proceeding is filed for relief of quashing of FIR
No.150 of 2017, registered with Rahata Police Station, District
Ahmednagar, for the offences punishable under Sections 143, 147,
427, 323, 504 and 506 of the Indian Penal Code.

3 The crime is registered on the basis of report given by Respondent No.2, Bhausahab Bhujbal. He gave report on 30th December, 2017 in respect of incident of same day. He has made allegations that land Gat No.1054 of village Astgaon is owned by him and his family is living there in a house constructed in the field. It is contended that on that day at about 03:30 pm, when he was present in the field for irrigation purpose, the Applicants entered the field with JCB and tractor. It is contended that the Applicants said that they were owners of the land and they had stay order with them. It is contended that the Applicants then used JCB and tractor and pulled down the house of informant and caused damage to the standing crop of wheat.

4 The learned counsel for Applicants submitted that the aforesaid land has been in possession of present Applicants since the year 1957. He took this Court through the record of litigation. The record shows that there were initially lease agreements in favour of the grandfather and father of Applicants in respect of this land made by the father of informant. Then on 14th April, 1972, agreement of lease was made for the period of 70 years. The submissions made

and record show that in the year 1974, there was an agreement of sale made in favour of the Applicants. As the sale-deed was not executed, suit for specific performance of said contract was filed. The suit was decreed. Appeal filed against the said decision by the informant came to be dismissed and the second appeal filed in this Court also came to be dismissed. Thus, the decision became final on 24th March, 2011. The submissions made show that execution proceeding is filed for execution of the said decree, but due to some miscellaneous applications, the order of execution of sale-deed is not yet passed. The submissions made show that tenancy proceeding was also started by the family of first informant, but they lost in that proceeding in MRT and the said decision is challenged in this Court by the informant. The record of litigation shows that in the decree given for specific performance, Civil Court has held that the Applicants are in possession of the aforesaid land.

5 The submissions made show that as the dispute was continued by the family of first informant, civil suit came to be filed in the year 2017 (Regular Civil Suit No.254 of 2017) by the Applicants for relief of injunction and temporary injunction is granted to prevent

the first informant from interfering in the possession of the Applicants. In the said suit, counter claim is made by the first informant and he had also applied for relief of temporary injunction. He tried to contend that subsequent to the aforesaid decision, decree, on 26th August, 2017, there was settlement between the parties and possession of this land was returned to the informant. This submission is considered by Civil Court and injunction is clamped on the informant by order dated 22nd December, 2017.

6 The aforesaid decisions and orders of Civil Court cannot be ignored. The so-called incident took place on 30th December, 2017. On that day, at C.R. No.151 of 2017, crime was registered against the informant and his associates for the offences punishable under Sections 325, 143, 147, 148, 149, 447, 323, 504 and 506 of the Indian Penal Code. Same incident is mentioned and allegations are made that the informant of present matter illegally entered with his associates, picked up quarrel and assaulted the persons of the side of present Applicants. Police papers contain the record of injuries sustained.

7 The learned counsel for first informant submitted that in the revenue record, there is entry of the name of first informant. He produced some photographs to show that in one land the informant is irrigating some portion. This kind of record cannot be considered by this Court. There is also record to show that there was some damage to tin-sheets and household article were lying at a place. This contention also cannot be considered by this Court in view of the decision of Civil Court, which became final in second appeal decided by this Court. This Court has held that from the year 1957, the Applicants have been in possession of the disputed land. Thus, if the informant of present matter had entered the land and even if he had created some structure over there, that was illegal act and that was disobedience of the order of Civil Court. Some incident did take place and that can be seen from the two counter FIRs. As the first informant had no right to enter the land in view of the aforesaid circumstances, this Court holds that relief needs to be given to the Applicants. In the result, the following order is passed:

ORDER

- I. The application is allowed.

II. Relief is granted in terms of prayer clause (A).

III. Rule is made absolute in those terms.

[K. K. SONAWANE, J.]

[T. V. NALAWADE, J.]

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