

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8920 OF 2019

Vikas S/o Sonyabapu Ghorpade

Petitioner

versus

Shri Sampatrao Vishwanath Kshirsagar

Respondent

Mr. S.S. Kulkarni h/f Mr. N.C. Garud advocate for the petitioner

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CORAM : **RAVINDRA V. GHUGE, J.**

Date: July 23, 2019

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PER COURT :-

1 The petitioner – original defendant is aggrieved by the order dated 15.3.2019, passed by the Trial Court, by which, the application Exhibit 57 filed by the plaintiff in RCS No.298/2016, seeking permission to repair the bore-well allegedly broken by the defendant, has been allowed.

2 I have heard the strenuous submissions of the learned advocate for the petitioner – defendant. Though this petition consists of voluminous documents, the short point raised for consideration is, whether the impugned order of the Trial Court, permitting the plaintiff to repair the bore-well can be said to be a perverse or an erroneous order.

3 Learned counsel for the petitioner has drawn my attention to the four grounds formulated in the memo of the petition. The petitioner claims that the bore-well in the suit plot belongs to the

petitioner. The plaintiff has his own bore-well in front of the door of his bungalow in the said plot. Earlier, there were good relations between the parties and they used to share the water. Subsequently, the plaintiff had to approach the Trial Court for seeking perpetual injunction against the defendants so as to protect his non-agricultural lay-out bearing Plot No. 8 admeasuring 3300 square meters.

4 The record reveals that the plaintiff had to approach the Police station for registering an FIR as the CC TV footage in front of the house recorded the defendants damaging the bore-well belonging to the plaintiff.

5 Learned Advocate for the petitioner – defendants submits that it is the case of the plaintiff that the defendants have forcibly occupied a portion of the suit property. Granting permission to repair the bore-well would amount to allowing the plaintiff to take back the possession of the property.

6 I find from the photographs and the record that the bore-well is in front of the constructed residential premises and repairing the bore-well would not amount to grant of a relief to the plaintiff to take back the possession of the property which he has allegedly lost to the defendants. Permitting a litigant to repair a bore-well and that too during peak summer season, when the impugned order was passed on 15.3.2019, in my view cannot be termed as being a perverse or an erroneous order.

7 In view of the above, the petition, being devoid of merit, is therefore, dismissed.

(RAVINDRA V. GHUGE, J)

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