

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9419 OF 2019

SUBHMAM SHAILENDRA JAISWAL AND ANOTHER
VERSUS
SUBASH SHANKARLAL JAISWAL

Mr.R.F.Totala h/f Mr.R.R.Totala, Advocate for the petitioners.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 31/07/2019

PER COURT :

1. The petitioners are aggrieved by the order dated 09/07/2019 by which the Trial Court has refused to grant police protection to the petitioners u/s 151 of the CPC and has rejected application Exh.29 in RCS No.249/2017.

2. The petitioners submit that injunction was granted in favour of the petitioners on 09/02/2018 under Order 39 Rules 1 and 2. Thereafter, the defendants had tried to disturb the peaceful enjoyment of the petitioners. An application Exh.25 was filed for seeking police protection. By order dated 30/07/2018, the Trial Court had rejected the application on the ground that extra ordinary circumstances or apprehension of violence and grave danger to the

physical existence of the plaintiff has not been pointed out. The petitioners had approached this Court and by order dated 18/02/2019, this Court had disposed off WP No.9444/2018 concluding that if there is a fresh instance, which would warrant invoking Section 151, an application can be filed after the summer season.

3. The learned Advocate for the petitioners submits that a complaint was filed by the petitioners on 06/06/2019 before the concerned Police Station stating therein that there was a face-off between the plaintiffs and the defendants on 06/06/2019 at 11.30 a.m. near the agricultural land. There was an exchange of bad words and the defendants threatened the petitioners. One amongst the petitioners namely Shubham Shailendra Jaiswal approached the Police Station and filed a complaint stating that the defendants have beaten the plaintiffs.

4. The petitioners moved Exh.29 before the Trial Court u/s 151 seeking police protection. The Trial Court considered the said application which was filed on 07/06/2019 and concluded that as the police complaint has already been lodged, the plaintiffs can pay necessary charges and seek police protection. However, it did not

find such grave circumstances, which would warrant the passing of an order u/s 151, granting such assistance.

5. Reliance is placed upon the judgment of the Andhra Pradesh High Court in the matter of Rayapati Audemma Vs Pothineni Narasimham [AIR 1971 AP 53], wherein the learned Division Bench of the Andhra Pradesh High Court has concluded that in appropriate cases, grant of police protection is permissible and the Court is not powerless to pass such orders.

6. I find from the police complaint dated 06/06/2019 that the petitioners claimed that the defendants had abused them and had threatened them with physical harm. It is also alleged that they started beating some of the petitioners. The matter has reached the police station. It appears that there was an exchange of words between the parties and that led to bad words being used and the defendants seem to have pushed the plaintiffs. It is not stated that they have suffered any injuries or that they had approached the hospital for treatment.

7. Nevertheless, the petitioners have preferred contempt of court proceedings before the High Court under the Contempt of Courts Act

on the ground that the injunctory order granted by the Trial Court on 09/02/2018 under Order 39 Rules 1 and 2 of the CPC, has been violated. The petitioners have an efficacious remedy even under Order 39 Rule 2A. Having preferred contempt of court proceedings, it is informed that this Court has already issued notices to the defendants.

8. It is held in the matter of Reba Mandal Vs. Sandhya Paul and others [(2018) 6 WBLR (Cal.) 277] and Bijiga Papa Rao Vs. Jonnalagadda Srinivasa Rao [2015(2) ALD 171], has concluded that the powers u/s 151 are to be used sparingly and in rare situations. When all remedies available are exhausted and yet the injunctory order holder finds his life is at risk and under a threat, then such a relief can be granted. Police protection u/s 151 cannot be granted at the mere askance.

9. Considering the above, this petition, being devoid of merit, is therefore dismissed.

(Ravindra V.Ghuge, J.)