

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13433 OF 2019

DATTU SAHADU GADADE
VERSUS
MANIK SHRIPATI GITE AND ANOTHER

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Advocate for Petitioner : Shri Gatne Atul B.

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CORAM : RAVINDRA V. GHUGE, J.

Dated: November 06, 2019

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PER COURT :-

1. The petitioner / plaintiff in RCS No. 211 of 2014, is aggrieved by the order dated 23.9.2019, passed by the trial Court, by which, his application Exhibit 48 seeking police protection so as to implement the injunction granted in his favour, has been rejected.

2. The petitioner having acquired the share of the suit property under a partition, preferred RCS No. 211 of 2014 for seeking permanent injunction against the defendants and from restraining them from interfering in his peaceful possession. By an order dated 20.11.2014, the trial Court rejected application Exhibit 5 and declined temporary injunction in favour of the plaintiff. He preferred Misc. Civil Appeal No.162 of 2014 before the appellate

Court and by judgment dated 3.4.2019, the said appeal was allowed and the defendants were directed not to obstruct the possession and cultivation of the plaintiff in the suit land Gut No.68.

3. The petitioner preferred application Exhibit 48 on 17.6.2019 praying to the trial Court that police aid be granted to the plaintiff for two days so as to resort to the sowing activity. It was stated that the defendants are obstructing the petitioner and as one of their relatives is a Police Officer, the concerned police station is not providing police aid.

4. The trial Court has rejected Exhibit 48 vide the impugned order, by concluding that the grant of police aid is an exception and such police aid cannot be granted unless the Court is convinced that the applicant has a grave and serious threat of physical injury, harm or violence.

5. The learned Advocate for the petitioner submits that he had approached the Police Station for seeking police aid so as to resort to agricultural activity. Reliance is placed on the order passed by this Court in Bapu Vs. Yeshwant [2016 SCC Online BOM 8450], wherein, this Court had granted police protection to the petitioner

in relation to his agricultural land at Kadepur, Tq. Kadegaon, District Sangli.

6. In my view, the issue as regards the grant of police aid is no longer *res integra*. It is now well settled that the appropriate remedy for disclosing the violation of the injunctory order is under Order XXXIX Rule 2A of the Code of Civil Procedure (CPC). It is held that this remedy is an appropriate remedy for redressing the grievance of the litigant, who claims that the order of injunction is being disobeyed. Granting police aid is an unprecedented order, which is permissible only if the litigant indicates grave physical danger.

7. In the following cases the Calcutta High Court and the Andhra Pradesh High Court have crystallized the law on this aspect:-

- (i) Bijiga Papa Rao Vs. Jonnalagadda Srinivasa Rao
2015 (2) ALD 171 and
- (ii) Aditya Kumar Ray Vs. Dhirendra Nath Mawdal
AIR 1950 Cal. 92.

9. In view of the above, I find that the request of the plaintiff

to grant police aid for two days so as to carry out the cultivation activity, cannot be the basis for granting police protection. A proceeding could have been filed by the plaintiff under Order XXXIX Rule 2A of the CPC and which recourse is still available to him.

9. In view of the above, I do not find that the impugned order could be termed being perverse or erroneous. This petition, being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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