

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.13773 OF 2019

ARUN RAOSAHEB DHOBAL AND OTHERS
VERSUS
RAGHU SHRIRANG DHOBAL AND OTHERS

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Advocate for Petitioners : Shri Dhobale Nitin L.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: November 15, 2019

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PER COURT :-

1. The petitioners who are the original plaintiffs in RCS No.225 of 2012, are aggrieved by the impugned order dated 26.8.2019, passed by the trial Court, by which, application Exhibit 76 seeking police aid for implementing the injunctory order, has been rejected.

2. The learned Advocate for the petitioners has strenuously criticized the impugned order. He relies upon the averments set out in the petition and submits that police protection was necessary to guard the plaintiffs from the acts of obstruction committed by the defendants. It is pointed out that application Exhibit 5 seeking injunction was earlier rejected by the trial Court on 20.11.2014. MCA No.54 of 2014, filed by the petitioners was allowed by judgment dated 9.11.2017. The defendants approached this Court in Writ Petition No.2678 of 2011, which was dismissed by this Court vide

order dated 11.4.2018.

3. The learned Advocate for the petitioners further submits that they had preferred a complaint before the police station contending that the defendants are obstructing their path and they have weapons with them. Thereafter, Exhibit 76 was filed before the trial Court.

4. I find that the petitioners have an efficacious remedy under Order XXXIX Rule 2A of the CPC. Police protection or police aid is granted only when there is a serious threat to the life of the complainant or if there is any act of assault. In the following cases, it has been concluded that granting police aid is an unprecedented order and only if the circumstances convince the Court that the life of the complainant is under a serious threat, such an order can be passed:-

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

5. The petitioners have relied upon the judgment delivered in Municipal Council Vs. Kundanlal [2007 (3) Mh. L.J. 155]. I find that in the said case, there was a threat of demolition of the shops, which were being occupied by the complainant for more than 20 years. I do

not find that in the instant case, there has been any act of attack or a physical face off.

6. Considering the above, I do not find that the impugned order could be branded as being perverse or erroneous.

7. This petition being devoid of merits is, therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

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