

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3304 OF 2019

Govind Rama Dargude
(Deceased, through LR)

... Petitioner

Vs.

Bhanudas S. Satav & Ors.

... Respondents

Mr. Prasad P. Kulkarni, for the Petitioner

Ms. Ujwala Sawant i/b Ms. Shraddha Pawar, for the Respondent
Nos. 1 and 2.

CORAM : M. S. SONAK, J.

DATE : MARCH 14, 2019

P.C.:

1. Not on board. Upon mentioning, taken on board.
2. Heard Mr. Prasad Kulkarni for the petitioner and Ms Ujwala Sawant, for the respondent Nos. 1 and 2.
3. Challenge in this petition to the order dated 8/2/2019 passed below Exhibit 77, by which learned Trial Judge has granted the original plaintiffs police protection, in order to enforce the injunction order which was made on 17/8/2007.
4. Mr. Kulkarni submits that since injunction order was made almost 12 years ago, the learned Trial Judge was not

justified in exercising inherent powers under section 151 of the Civil Procedure Code and passing the order of police protection. He submits that with the assistance of the police, the respondents are changing the status-quo and trying to carry out new road at the site.

5. Since there is no dispute that the injunction order dated 17/8/2007 is still in operation, obviously there can be no bar to the learned Trial Judge to exercise the inherent jurisdiction, in order to enforce the injunction order, if necessary, by ordering police assistance. Learned Trial Judge has noted that Cr. No. 185 of 2006 was registered against petitioners for commission of offence under section 326, 324, 147, 148 read with 49 of the Indian Penal Code. Learned Trial Judge has correctly held that, as apprehended by the plaintiffs, there is every possibility of endangering the public peace at the instance of the defendants.

6. Mr. Kulkarni submits that Cr. No. 185 of 2006 is already disposed of, and that itself is not sufficient to hold that there is apprehension of endanger to the public peace at the instance of defendants, as expressed by the plaintiffs. This is not a case where learned Trial Judge can be said to have exercised

jurisdiction unreasonably or arbitrarily.

7. Insofar as the allegation that plaintiffs are trying to create new road with the assistance of police, there is no material on record in respect of the same. No doubt, if such is the case, nothing prevents the petitioners from taking out an appropriate application before the learned Trial Judge. However, the petitioners are not entitled to act against the injunction order which is already in operation.

8. Accordingly, this petition is liable to be dismissed and hereby dismissed. There shall be no order as to cost.

9. At this stage, the learned counsel for the petitioners request for a direction for expediting hearing of Regular Civil Suit No. 382 of 2006 since suit is pending since year 2006. Learned Trial Judge is directed to dispose of the suit as expeditiously as possible, preferably within one year from today. Both the parties to co-operate with the learned Trial Judge for expeditious disposal of the suit.

10. All concerned to act as on an authenticated copy of this order.

Sd/-
(M. S. SONAK, J.)