

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application NO. 982 OF 2017
IN
Writ Petition NO. 7222 OF 2007

M/s. Voltas Limited

And Anr.

...Applicants

Versus

Municipal Commissioner,
Thane Municipal Corporation

And Ors.

...Respondents

....

Mr. L.M. Acharrya, Advocate i/b. Anish Khandekar, Advocate for the Applicants.

Mr. Mandar Limaye, Advocate for Respondent Nos.1 & 2.

Ms. S.S. Bhende, AGP, for Respondent Nos.3 to 5.

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**CORAM : K.K. TATED &
SARANG V. KOTWAL, JJ.**

DATE : 18th DECEMBER, 2019

P.C.

1. Heard learned Counsel for the parties.
2. By this Civil Application, the applicant is seeking order of injunction restraining the respondents from disturbing their possession in respect of the suit property admeasuring 2195 square meters out of a larger property bearing Survey Nos.166(part) to 173(part), Survey No.282(part) to 287(part) and Survey

Nos.304(part) to 306(part) situate at village Majiwade, Pokhran Road No.2, Taluka and District – Thane.

3. Learned Counsel Mr.L.M. Acharrya for the applicants submits that by Writ Petition No.7222/2007 the petitioners are challenging the action of the respondents. He submits that during pendency of the present petition, the respondent Thane Municipal Corporation through letter dated 30.4.2016 called upon the petitioner – applicant to remove their school buses from the suit property. He further submits that though the respondent filed their affidavit-in-reply in the present Civil Application no where have stated that the applicant is not in possession of the suit property. Hence they preferred present Civil Application.

4. During the course of arguments, the learned Counsel Mr. Mandar Luimaye appearing on behalf of the respondents submits that they have not issued any notice for handing over vacant and peaceful possession of the suit property.

5. Considering the submissions made by the learned Counsel for the parties and the letter dated 30.4.2016, we are satisfied that during pendency of the present Writ Petition, the applicants have

made out a case for allowing this Civil Application in terms of prayer clause (a). Hence, the following order is passed :

(i) Civil Application is allowed in terms of prayer clause (a), which reads thus :

“(a) Pending the hearing and final disposal of this Writ Petition, the Respondent and its officials and / or any other persons acting for and under them be enjoined from taking forcible possession and/or in any manner disturbing damaging any part of the Applicant’s property i.e. land reserved for Retail Market admeasuring 2195 sq. mtrs. out of larger property bearing Survey Nos. 166 (pt) to 173 (pt), Sr. No.282 (pt) to 287 (pt) and S. No.304 (pt) to 306(pt) situated at Village Majiwade, Pokhran Road No.2, Taluka and District Thane;”

(ii) Civil Application stands disposed of accordingly.

(iii) No order as to costs.

(SARANG V. KOTWAL, J.)

(K.K. TATED, J.)

Deshmane (PS)