

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.29 OF 2018

Dattaji Khanderao Pawar and Ors. ...Petitioners

vs.

Sarjerao Khanderao Pawar and Ors. ...Respondents

Mr. M.B. Deshmukh, for the Petitioners

None for the Respondents

CORAM : M. S. SONAK, J.

DATE : APRIL 11, 2019

P.C.:

. This Petition *prima facie* is abuse of the process of law. The Petitioners admit to having disobeyed the interim injunction order issued by the learned trial Judge on 7th June, 2015. In order to enforce, injunction order, the Plaintiff invoked the provision under Order 21 of Code of Civil Procedure (CPC). The Petitioners contended that should have invoked the Order 39 Rule 2A of CPC and not Order 21 of CPC. Since this application was rejected, the present Petition has been filed to question the impugned order dated 6th October, 2017.

2. In the first place, as long as, the Petitioners concedes the Civil Court has power to exercise of such power the impugned order cannot be questioned, merely because the party quoted a

provision which according to the Petitioners is incorrect. In any case, the jurisdiction under 227 of the Constitution cannot be exercised in favour of the party who disobeyed the order made by the Court. These two grounds are sufficient to dismiss this Petition.

3. Accordingly, this Petition is dismissed. Further notice is issued to the Petitioners to show cause as to why action for contempt of Court should not be initiated against them by resort to provision under Article 215 Constitution of India. The Petitioners to show cause by 10th June, 2019.

4. The Petitioners are directed to remain present personally in this Court on 10th June, 2019.

5. The learned counsel for the Petitioners now seeks to stay on the proceeding before the trial Court. Surely main Petition under Article 227 of Constitution of India, has already dismissed the question of any stay in the proceeding before the trial Court.

6. The Petitioners are directed to maintain status-quo in relation to the suit property pending the suit.

(M. S. SONAK, J.)