

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

932 WRIT PETITION NO.5098 OF 2021

CHANDULAL PRABHUDAS UDASI
VERSUS
ZILLA PARISHAD JALGAON AND OTHERS

WITH

WRIT PETITION NO.4146 OF 2021

NATTHU RAMKRUSHNA MAHAJAN AND OTHERS
VERSUS
ZILLA PARISHAD JALGAON AND OTHERS

WITH

WRIT PETITION NO.5097 OF 2021

MANOJKUMAR KANAHIYALAL NATHANI
VERSUS
ZILLA PARISHAD JALGAON AND OTHERS

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Mr. M.V. Navandar and Mr. Sayyad, Advocates for the petitioners.
Mr. B.S. Shinde, Advocate for the Caveator.

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CORAM : **AVINASH G. GHAROTE, J.**

DATE : 06-07-2021.

ORDER :

1. Heard Mr. Navandar and Mr. Sayyad, learned Counsel for the petitioners. Mr. Shinde appears for the respondents in all the three petitions.

2. The present petitions challenge the order dated 25.01.2021, passed by the 2nd Joint Civil Judge (Junior Division) Jalgaon, below Exh.6 in Contempt Application No. 1 /2020, thereby

rejecting the application for temporary injunction as filed by the present petitioners before him.

3. When the court made a pertinent query to the learned counsels for the petitioners as to how the provisions Order 39 Rule 1 and 2 of the Code of Civil Procedure (“CPC”) are applicable and attracted to proceedings under the Contempt of Courts Act, both the learned Counsel for the petitioners are unable to give satisfactory answer. Mr. Sayyad, learned Counsel for the petitioner invites my attention to Section 94 of the CPC and submits that such a course of action of entertaining an application under Order 39 Rule 1 & 2 of CPC in proceedings for contempt under the Contempt of Courts Act, was permissible in view of Section 94 (c) of CPC. I am unable to accede to his submission as it is wholly without merit or substance altogether, for the reason that the supplementary proceedings as contemplated under section 94 of the CPC would not take into its compass the proceedings under the Contempt of Courts Act. The argument therefore is rejected.

4. There is no provision in the contempt of Courts Act which makes the Code of Civil Procedure and that too the provisions of Order 39 Rule 1 and 2 of the CPC applicable to the proceedings under the Contempt of Courts Act.

5. The 2nd Joint Civil Judge (Junior Division), Jalgaon, therefore, ought not to have entertained the application at Exh. 6 at the outset itself much less, waste his time in deciding the same by rejecting it. The writ petitions challenging the said order are clearly

not the proceedings which ought to be entertained by this Court, as in my considered opinion they amount to gross abuse of the process of law. The petitions are therefore dismissed.

6. I was inclined to dismiss the petition with compensatory costs, however considering the plea of the learned Counsel for the petitioners, that the petitioners are affected by the Covid condition, I refrain from saddling any costs upon them.

(AVINASH G. GHAROTE)

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