

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4288 of 2021

Bhagatsingh Shivramsing
Rajput and ors

.. Petitioners

Versus

Smt.Shobha Dilipsingh Rajput
and Anr

.. Respondents

...

Mr.Vishal Kale i/b Amey Deshpande and Ganesh Misal for the
petitioners.

Mr.Vaibhav V. Ugle with Mr.Vikas Somavanshi for respondents.

CORAM: BHARATI DANGRE, J.

DATED : 18th NOVEMBER, 2021

P.C:-

1 The present Petition is filed by the petitioners who
are defendants in the Special Civil Suit No.16 of 2019 filed before
the Civil Judge, Sr. Division, Pune.

 The Suit is instituted for injunction under Section 6
of the Specific Relief Act and the plaintiff claim possession over
the suit property by invoking Section 6 of the Specific Relief Act
in the wake of the pleading that they were ousted from the suit
premises on 14th December 2018 by the defendant nos.1 and 2
with the aid of defendant nos.3 and 4. The plaintiffs staked a
claim that they have been dispossessed from the suit property

which has been owned by them, where they are staying for more than 30 years without any interference by the defendants, but the defendants have forcibly and without following due procedure established by law, have deprived them of their possession. The claim that the plaintiff no.1 is a senior citizen with ailments like Blood Pressure and when he was manhandled, he was left with no option than to leave the premises and stay at a distinct place. An Application for injunction was moved seeking a similar relief and the learned Civil Judge, on 16th April 2019, rejected the Application in the backdrop of the parameters determining the Suit instituted with the aid of Section 6 of the Specific Relief Act.

2 The learned Judge has recorded that unless the issue is framed and answered on the point of dispossession in regard to the material and pleading available on record, no interference can be suggested for recording any findings. The documents which were sought to be filed by the plaintiffs were held to be not sufficient to show their entitlement and it was recorded that no case is made out in favour of the plaintiffs and the balance of convenience lies in favour of the defendants.

3 On an Appeal being carried to the Court of District Judge, Pune, the finding has been reversed. The Appeal is allowed and the impugned order passed below Exhibit-5 by the Civil Judge, Sr. Division, Pune is set aside. The defendants are

directed to restore possession of the suit house to the plaintiff within a period of 15 days.

4 On a Writ Petition being instituted by the aggrieved defendants, on 25th February 2021, notice was issued and the Court directed maintenance of status quo. The position as on today is that the status quo is in operation.

5 I have heard the learned counsel for the petitioners and the respondents at length and also perused the documents which are placed on record in form of compilation by the defendants. It refers to series of documents and I am of the opinion that all these documents are not adverted to, by the Appellate Court and the reasoning recorded by the Appellate Court to the effect that the documents *prima facie* show plaintiff's long standing possession in the suit house and their dispossession cannot be a complete truth. In fact, in paragraph no.10 of the Appellate Court order, the learned Judge has cursorily referred to the documents referred by the plaintiff as well as the defendant and an inference has been drawn that the plaintiffs were in possession of the suit house and their well settled possession is established since long.

On perusal of the impugned order as well as the orders placed on record, it is apparent that both the parties have placed on record the relevant documents depicting the possession

over the suit property, though it is not in dispute that defendant no.1 is the owner of the suit property and the case which has been pleaded before the Court is now to the effect that he has gifted the suit property to defendant no.4. It is also informed that the Suit has also been permitted to be amended to that effect and the amendment being allowed, is opposed by raising a challenge.

6 Since the status quo order is granted on 25th February 2021 and is continued till today, it is expedient in the interest of justice that maintaining the said position which is being continued for more than 8 months, the Civil Judge, Sr. Division, Pune shall decide the Suit expeditiously and in any case, not later than 31st May 2022.

The parties undertake that they shall render all their co-operation in culmination of the Suit and any unnecessary adjournment on behalf of either of the parties with an intention to prolong the proceedings, shall be dealt with a stern hand by the learned Judge. Merely because the defendants are enjoying the property by virtue of the status quo order, will not preclude the learned Judge from determining the merits of the matter, since as far as Exhibit-5 is concerned, I am not able to satisfy myself about the manner in which the Appellate Court has dealt with the issue, but only for a reason that the status quo is in operation since February 2021, I have issued the aforesaid direction for expeditious disposal of the Suit.

7 Any observation made above, shall not be taken to be an observation touching the merits of the matter and the learned Civil Judge is at liberty to decide the suit on its own merits taking into consideration the evidence that will be adduced before him.

With the aforesaid situation, Writ Petition is disposed of.

SMT. BHARATI DANGRE, J