

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6786 OF 2021

Shankar Laxman Badadhe
(Devghare) & Anr. .. Petitioners

Vs.

Anil Kisan Badadhe & Ors. .. Respondents

...

Mr. Harshad Sathe with Ms. Ankita Pawar and Mr. Harshavardhan Khambete for the petitioners.

Mr. Sarthak Diwan for respondent No.1.

Mr. Pankaj D.P. for respondent Nos.6 to 14.

Mr. Siddhesh S. Shetye for respondent Nos.15 to 23.

Mr. Pravin Anil Badadhe, son of respondent No.1 is present in the court.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 14TH OCTOBER, 2021.

P.C:-

1. The present writ petition is circulated in view of the urgency expressed by learned counsel for the petitioners that in a *Pooja*, which is likely to be performed on the day of the Dussehra, he has been restrained from participating when his application filed under Order 39 Rule 1 came to be rejected by

AJN

Civil Judge, Junior Division, Saswad, Pune on 06/10/2021. Pertinent to note that an application for temporary injunction (Ex-5) filed in Regular Civil Suit No.186 of 2021 is already pending before the learned Judge and injunction under Order 39 Rule 1 was sought on account of the *Navaratri* festival, which was to commence from 07/10/2021 and the relief sought in the application vide Ex-60 was very limited; that during the *Navaratri* festival and particularly, during the *Ghatastapana*, which event was scheduled on 07/10/2021, he shall be permitted to perform the customary rites and he shall not be restrained.

2. The said application came to be rejected by recording that the balance of convenience do not lie in favour of the applicants and their conduct is not free from blame and they have not approached the court with clean hands. Needless to say that this order ought to have been assailed in an appeal, but the petitioners have preferred to file a writ petition, instead. I do not deem it expedient to enter into the merits of the matter for two counts; firstly, largely the events, which was contemplated in the application are over, barring the last day ceremonies and rituals to be performed on the *Dussehra day* and secondly, that the injunction application determining *prima facie* case in favour of the plaintiff is still pending before the learned Judge.

3. While the impugned order was passed, the court recorded in the following effect:

“10. Both the parties are not denying the right of worship of each other in Shrinath Mhaskoba Temple except the preferential right of worship.”

4. The limited prayer, which the petitioners are making today, is that he shall be permitted to enter into the temple, tomorrow being an auspicious day on account of *Dussehra*, and permitted to offer his prayer like any other villagers, who are permitted to offer their prayer by offering flowers to the deity and the *shastra* in the temple on the day of *Dussehra*.

Both the parties agree that the petitioners shall be permitted to enter in the temple, on the day of *Dussehra*, which is tomorrow and the petitioners shall be allowed to offer their prayers to the deity by offering flowers at Her feet and worship the *shastra* kept in the temple, like any other villagers. Needless to say that apart from the present two petitioners, all the members of the family shall be permitted to worship the deity and *shastra*.

5. This order is passed by consent of the parties and, thereby, indicating that I have not gone into the controversy involved in the matter and while deciding the application, by the learned Judge at a future point of time, between the parties *inter-se*, this order will not act as an impediment or cited as a precedent. This order is passed in the presence of the son of defendant No.1 and

he has also consented that the petitioners shall be permitted to offer their worship in the aforesaid manner.

6. The writ petition is disposed of in the aforestated terms.

[SMT. BHARATI DANGRE, J.]