

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4251 OF 2021
IN
WRIT PETITION NO.6388 OF 2018

State of Maharashtra through

Collector & Ors.

.. Applicant

Versus

Sub.Maj/Hon.Capt. Balasaheb

Anandrao Jamadar (Malvadkar) & Ors...

Respondents

...

Mr.B.V.Samant, AGP for the Applicant/State.

Mr.S.S.Bedekar for the Petitioners in WP/6388/18 and for the Respondent No.1 in IA/4251/21.

Mr.Rupesh Lanjekar for the Respondent No.3.

...

CORAM: BHARATI DANGRE, J.

DATED : 22nd DECEMBER, 2021

P.C:-

1. The present application is taken out by the Collector, Pune whereby relief of permitting an entry into the suit property, from 22/12/2021 to 05/01/2022, for making necessary arrangements, for the function to be organized on the site on 1st day of the year 2022, is sought.

The necessity of taking out the application is set out to the effect that the petitioner, who is the original plaintiff, has filed R.C.S.No.784 of 2017, seeking an injunction pertaining to

property bearing Gat No.1033 of village Perne, Taluka Haveli, District Pune. It is in this property, a Victory Pillar is erected during British regime, in the memory of Valliant Martyrs, who fought the historical battle of 1818 and it is popularly known as 'Koregaon Bhima'. The Victory Pillar, which is referred to as 'Jaystambh' is a place of worship for several persons across the State and the State arrange a function to mark their sacrifice, when homage is paid at the site.

Pertinent to note that the Writ Petition No.6388 of 2018 which is pending in this Court , pose a challenge to the order passed by the learned Ad-hoc District Judge-1, Pune, dismissing the Misc.Civil Appeal No.18 of 2018 and on 14/06/2018, this Court continued the order of status-quo granted by the District June, Pune on 24/04/2018, and the order of status-quo is in force as on date.

2. In the wake of the aforesaid direction to the parties to maintain status-quo, the permission is sought by the Collector to enter into the suit property, for the limited purpose and also to permit the general public to visit the said Victory Pillar from midnight of 31/12/2021 to the midnight of 05/01/2022. My attention is invited to the several orders which have been passed in the month of December of the year 2018, 2019 and 2020. I have noted that the petitioner has accorded his no-objection to the permission for entering upon the suit land for limited purpose and upon the concession being granted, the permission prayed for by the Government was granted, for the last three consecutive years. The concern of the petitioner is also taken care of in the order dated 19/12/2019. While

recording the no-objection of the petitioner, it is recorded that the applicant (State) shall take the responsibility to restore the land underneath to its original status, on cleaning and maintaining the same, as soon as the function is over.

3. I am inclined to pass a similar order, but with an additional rider, in view of the apprehension expressed by the learned counsel for the petitioner that, this year the State is expecting the site to be visited by around 5 lakh visitors and he has an apprehension that the house structure, which is located near the Victory Pillar, should be protected and the State shall ensure that the members of the public, who are visiting the Victory Pillar to pay homage, shall not cause any interference in the peaceful enjoyment of the property or any damage to the suit property.

Taking into account the concerned expressed by the learned counsel for the petitioner, I pass the following order.

: ORDER :

- (a) Interim Application No.4251 of 2021 is allowed.
- (b) The State Government through its officials shall be permitted to enter the suit land from 22/12/2021 till 05/01/2022. The access to the general public is also granted from midnight of 31/12/2021 till midnight of 05/01/2022.
- (c) Upon the expiry of the aforesaid period, the State and its officials shall remove themselves from the site by restoring it to its original position as it stood, when the possession is taken over. The State shall also ensure that the peaceful possession of the petitioner over the suit house and the adjoining area is

not disturbed and no hindrance is created to his access to the suit house.

WRIT PETITION NO.6388 OF 2018

4. I have noticed that the Writ Petition in which the order of status-quo is challenged, is pending since the year of 2018. Resultantly, every year in the month of December, the State is constrained to take out an application, seeking necessary directions. Interest of justice would be served if the writ petition itself is listed for admission, since the parties have expressed their consensus that they will argue the writ petition finally at the stage of admission.

5. Registry is directed to list the writ petition for hearing on 01/03/2022.

(SMT. BHARATI DANGRE, J.)