

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8527 OF 2022

Markandeshwar Mandir Seva Trust
though its members.

..Petitioners.

Versus

The State of Maharashtra & Others.

..Respondents.

Mr. Sanjeev Sawant i/b Mr. Samir Suryawanshi for the Petitioner.
Ms. R. M. Shinde, AGP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
KISHORE C. SANT, JJ.

Date : **July 20, 2022.**

P. C. :

1. After arguing the matter for some time, learned counsel appearing on behalf of the Petitioner submitted that the Petitioner is before this court challenging the order passed by respondent no.3 Deputy Collector (Encroachment / Eviction), Borivali-1 whereby the petitioner and others are subjected to an eviction process. Learned AGP appearing for the respondents raised a preliminary objection to the petition and submitted that the order passed by authority under section 50 of the Maharashtra Land Revenue Code, 1966 and the order impugned in the petition is an appealable order. If the petitioner is aggrieved by the order passed by Respondent No.3, the Petitioner can file an appeal taking recourse to section 247 of the Maharashtra Land Revenue Code, 1966.

2. Learned counsel appearing on behalf of the Petitioner

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submitted that the Petitioner is ready to file an appeal, however, as it will require some time and the apprehension of the petitioner is that pursuant to the order dated 5th July 2022, the respondent authorities may immediately take an action and if such action is taken, the Petitioner would be put to a serious prejudice. Thus, the counsel prayed for protection till the petitioner takes appropriate steps, i.e., filing appeal before the competent authority along with an application for interim orders. Accordingly, we dispose of the petition with liberty to the Petitioner to avail other remedies as available under the law including the filing of a statutory appeal before the competent authority. The respondents are directed not to take coercive action pursuant to the order dated 5th July 2022 for a period of three weeks only. Needless to state that on expiry of a stipulated period of three weeks, the interim order passed by this court stands vacated automatically without further reference to this court.

3. As this court has not expressed anything on the merits of proceedings, the competent authority to decide the proceedings, namely, the appeal and the application for interim orders on its own merits.

4. All concerned to act upon a copy of this order issued by the Registry of this Court as an authenticated copy of the order.

[Kishore C. Sant, J.]

[Prasanna B. Varale, J.]