

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.4580 OF 2023
IN SA/767/2008 WITH SA/768/2008 WITH CA/9986/2016 IN
SA/767/2008**

**SHAIKH SARDAR SHAIKH HASAN
VERSUS
RAMCHADNRA DAMAJI MAGRE DIED LRS. JANABAI AND ORS.**

Mr. G. R. Syed, Advocate for the applicant

CORAM : R. M. JOSHI, J.

DATE : 4th MAY, 2023

P.C. :-

1. This application is for seeking police protection for removal to the sugarcane crop standing in suit field being Gut No.1 to the extent of 81 R. It is the contention of the applicant/appellant that the Second Appeal bearing No. 768 of 2008 is admitted and the possession of the appellant in respect of suit land is protected by order dated 01/12/2008 passed in Civil Application No. 10543/2008. It is further contention of the applicant that the respondents are obstructing removal of sugarcane and though the applicant approached to the concerned police for seeking protection, no protection is occurred and hence he is constrained to move this application before this Court. To support of the said application, the applicant relied upon letter addressed to Mudkhed Police Station.

2. Learned counsel for the applicant states that the original suit is for specific performance of contract and admittedly the applicant is in possession and cultivation of the suit land. It is submitted that till year 2021-2022 sugarcane was cultivated and the yield was sent to the sugar factory. To support of said contention he placed reliance on photo copy of bill issued by Bhaurao Chavan Sakhari Karkhana Ltd. According to him if the protection is not given for the purpose of removal of the crop standing in the suit filed, the same shall waste.

3. In spite of granting sufficient opportunities, none appeared for respondents. The contentions raised by the applicant in this application are not controverted by filing any say. Application is supported by the verification on oath. This Court, therefore, has no reason to disbelieve the case of the applicant made out in this application.

4. Perusal of the record indicates that this Court by passing order dated 01/12/2008 has protected the possession of the applicant over the suit land. The suit property is agricultural land and there is no dispute in about the fact that the land is being cultivated by the applicant/appelalnt. The entire purpose for granting injunction in favour of the applicant is not formally to protect his the possession but

obviously that it being agricultural land he is allowed to take the crop. Needless to state that same would always be subject to outcome of this appeal. Consequently, it is within the right of the applicant to cultivate and move the crop for its sale. The allegations against the respondents that they are obstructing the removal of sugarcane and which statement is not denied by the respondents. If the crop is wasted like this then it is not only loss to the parties but also natural resources utilized for the same would be wasted. This Court, therefore, finds that case is made out by the applicant for issuing direction to the Police to provide adequate police aid for the purpose of removal of the crop from the suit field.

5. In view of the above application is allowed in terms of prayer clause 'B'. The police protection so provided is subject to the payment of the charges as per rules.

6. It is clarified that this order is passed by way interim measure and without prejudice to the rights and contention of the parties on the merit of the case.

7. Parties to act upon authenticated copy.

(R. M. JOSHI, J.)

ssp