

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

**WRIT PETITION NO.12980 OF 2023**

Abdul Khayyum S/o Osmansab Shaikh,  
Age : 83 Years, Occ. Business,  
R/o. Miskinpura, Latur.

.. Petitioner  
( Ori. Plaintiff)

**VERSUS**

1. The State of Maharashtra,  
Through its Secretary,  
Department of Forest and Revenue,  
Mantralaya, Mumbai-32.
2. Range Forest Officer,  
Office at Sadhbhavana Nagar, Latur
3. Executive Engineer,  
Maharashtra State Electricity  
Distribution Company Limited,  
Office at Khorli Galli, Latur,
4. Shaikh Faimudabee W/o Mehaboob,  
Age : 66 Years, Occ. Household,  
R/o. Ahemadpur, Tq. Ahmadpur,  
District Latur.
5. Shaikh Saheda W/o Gulam Akbar,  
Age : 63 Years, Occ. Household,  
R/o. AUSA Tq. AUSA, District Latur
6. Shaikh Gajipasha S/o Abdul Gani  
Age : 61 Years, Occ. Business,  
R/o. Miskinpura, Latur
7. Shaikh Afzal Pasha S/o Abdul Gani,  
Age : 59 Years, Occ. Business,  
R/o. Miskinpura, Latur
8. Shaikh Mustafa S/o Abdul Gani,

Age : 51 Years, Occ. Business,  
R/o. Miskinpura, Latur

.. Respondents  
( Orig. Defendants)

...  
Advocate for Petitioner : Smt. Anjali Bajpai Dube  
A.G.P for Respondent Nos. 1 to 3 : Mr. S. P. Tiwari  
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**CORAM : S. G. MEHARE, J.**

**DATE : 17.10.2023**

**ORAL ORDER :**

1. Heard the learned counsel for the petitioner.
2. This case is an example of abuse of the process of law and using the Court to benefit the parties in collusion with the Government Officers.
3. The plaintiff, who is a petitioner here, had filed a suit for perpetual injunction against the Range Forest Officer, Latur and Executive Engineer Maharashtra State Electricity Distribution Company Limited, Latur. It was the case of the plaintiff that the defendants were disturbing his business. They were threatening him to stop/close his Saw Mill machines and threatened that if he continued running the machines, defendant No.1 would stop them and seal them. On the first day of the case hearing, the plaintiff secured the status quo order on 21 September 2012. Then, on 1 November 2012, a request was made

to continue the status quo until further orders. The learned trial Court continued the status quo order till further orders as no say was filed. There is no material available before the Court whether the defendants had ever asked for vacating the status quo order or filed the written statement.

4. Unfortunately, the record reveals that the suit proceeded without any progress. Meantime, the cousins of the plaintiff were arrayed as the defendants. The plaintiff had filed his original license in the Court with his suit. He applied to return the original documents for renewal of the license. The Court allowed the application and returned the original license. Thereafter, the plaintiff moved an application dated 29.08.2023 to the Forest Department for renewal of his Saw Mill license. Magic happened with the application for renewal of the licence. The Divisional Forest Officer, Osmanabad, wrote a letter dated 1.9.2023 to the Range Forest Officer, directing him to inspect the Saw Mill personally and submit his recommendation report. It was also observed that if the suit about the Saw Mill is pending in the Civil Court, the concerned person shall obtain the opinion of the Court about the renewal of the license that will be easier for the applicant for renewing the license. On the basis of this letter, the plaintiff had moved an application to the learned 4<sup>th</sup> Civil Judge, Senior Division, Latur, in

the suit which was pending before it and prayed to direct defendant No.1 to renew the Saw Mill license and specific direction may be passed in the name of defendant No.1 to remove the seal of saw machine of the plaintiff in the interest of justice. His cousins had given no objection to the said application. In fact, they had no concern with the renewal of the license. Defendant No.1, the Forest Officer, filed a reply to the said application below Exh. 147. It has given the history of the suit between plaintiffs and newly added defendants who were the plaintiff's e cousins. He contended that defendant No.1 was allotted one license to run a Saw machine, and the plaintiff was allotted two saw machines. On 25 August 2023, the officer of defendant No.1 visited Juber Saw Mill and found that there were four saw machines. He installed the fourth saw machine, which was illegal. The plaintiff and defendant No.3 had a common license for only three machines, which is in the name of the plaintiff and said license was also not renewed; therefore, defendant No.1 sealed all four saw machines. Defendant No.3 has a right; hence, as per Rule 53 of the Maharashtra Forest Rules 2014, the saw machines should be sealed until the legal heirs of the deceased person are decided. It was also submitted that considering the above, it is necessary to decide the legal heirs of defendant No.3, and it also must be decided which three saw

machines are under common license, after which the plaintiff has to renew the license and thereafter only seal can be removed from three saw machines. If the Court gives the direction to divide the license between the parties, then it will be convenient for defendant No.1 to act accordingly. It is also submitted that the process of renewal of the license has been made online, and it starts in the month of December of every year. So, considering the facts, the application may be rejected. The reply appears to be not legal. A half-hearted prayer was made for the dismissal of the application.

5. Hearing the respective counsels, the learned trial Court rejected the application Exh.143 for directing defendant No.1 to renew the license.

6. The learned counsel for the petitioner has vehemently argued that the learned trial Court has erroneously rejected the application. He has unnecessarily gone to the issue of status-quo order. It has also been vehemently argued that the impugned order is apparently illegal. Hence, it is liable to be quashed. The application Exh. 142 is liable to be reviewed. Since the forest department did not make an appropriate decision, the plaintiff has no option but to act upon the whims of the Forest Department

7. The first question is whether the Divisional Forest Officer has a right to direct the parties to obtain an opinion from the Court about the license renewal. The suit of the plaintiff was for a simpliciter injunction. The cause of action and the reasons for seeking relief were altogether different. There was no dispute before the Court about the license between plaintiff and defendant No.3.

8. Considering the nature of the suit filed and the relief sought below Exh. 142, the Court is of the view that the application itself was not tenable. Granting or refusing the license is the exclusive domain of the Forest Department. The way the proceedings are conducted smells something different: all the parties in the suit appear in collusion. They unnecessarily want to indulge the Court in a dispute between the parties, which was not the subject matter of the suit. The Court has perused the impugned order. The learned trial Court has correctly recorded the findings that the opinion, if obtained from the Court, does not give a right to the plaintiff to get the license renewed. The plaintiff is taking undue advantage of the order of the status quo obtained 14 years back, which is clear from his application. Specific findings have been recorded that the plaintiff cannot take advantage of the letter of the Sub-Divisional Forest Officer dated 1.09.2023.

9. The order impugned before the Court is perfectly legal and correct. Discipline should be maintained, and no one can be allowed to use or indulge the Court in a dispute for his personal benefit. Such a tendency must be curbed. Therefore, the petition stands dismissed with a cost of Rs. 20,000/- to be paid to the Deaf and Dumb School, Latur, within three months from today, and its receipt be produced before the learned trial Court. The learned trial Court is directed to decide the suit within three months from the receipt of this order.

10. The petition stands dismissed at the stage of admission.

**( S. G. MEHARE )**  
**JUDGE**

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