

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4007 OF 2022

Rupesh Baburao Khatake

.. Petitioner

Versus

State of Maharashtra and Ors.

.. Respondents

-
- Mr. Sujeet Bugade, Advocate for Petitioner.
 - Mr. S.H. Kankal, AGP for the State.
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 30, 2023.

P.C.:

- 1.** Heard Mr. Bugade, learned Advocate for Petitioner and Mr. Kankal, learned AGP for the State for some time.
- 2.** Perused the order dated 20.11.2018 passed by the learned Trial Court wherein Application below Exhibit-5 in Regular Civil Suit No.22 of 2017 and upheld the said order by the learned District Court in Misc. Civil Appeal No.4 of 2019 on 11.02.2021.
- 3.** The original Suit has been filed by Petitioner for seeking recovery of damages and compensation to the Petitioner's five vehicles which were impounded by the Officers of Respondent No.1 – State. The issue before the learned Trial Court was that the Petitioner has raised a grievance that while the said five vehicles were in the custody of Respondent No.1's Officer, they have been severally damaged.

Application below Exhibit-5 was filed by Petitioner before the learned Trial Court and after considering the submissions of both parties, the learned Trial Court has held that it cannot be proved at this stage whether the damage was caused to the vehicles of the Petitioner. Undoubtedly the Petitioner who is the Plaintiff before the learned Trial Court will have to prove the same by leading appropriate evidence. The learned Appellate Court framed the points for determination as to whether the Petitioner has *prima facie* proved a case for grant of temporary injunction as also balance of convenience and irreparable loss caused to the Petitioner and answered the same against the Petitioner.

4. It is further seen that reasoned order has been passed by the learned Appellate Court, perusal of which reveal that the Petitioner had infact got orders for release of the vehicles from the Competent Authority, but he refused and avoided to take back the said vehicles by complying with the condition of submitting the indemnity bond.

5. The learned Trial Court as well as the learned Appellate Court after considering the submissions have passed appropriate reasoned orders. I do not find any reason to interfere with the decision and discretion of learned Courts while passing the orders. Both the orders are speaking orders and speak for themselves. Both the orders are therefore sustained.

6. However, considering the issue involved in the present Writ Petition, it would be in the interest of justice, if the learned Trial Court is directed to dispose of the pending Suit within a time bound programme.

7. Hence, the following order:-

- (i) The learned Trial Court shall dispose of Special Civil Suit No.22 of 2022 within a period of six months from today;
- (ii) Both the parties are directed to appear before the learned Trial Court on 03rd February, 2023 at 12:00 noon for fixing the schedule for hearing of Special Civil Suit No.22 of 2018;
- (iii) The learned Trial Court is directed not to grant adjournment at the request of the parties unless absolutely necessary;
- (iv) Needless to state that the learned Trial Court shall not be influenced by any observations and findings in the twin orders dated 20.11.2018 and 11.02.2021 while determining the Suit.

8. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]