

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12471 OF 2022

Piragonda alias Ramesh Ravsaheb Patil

....Petitioner

V/S

The State of Maharashtra & Ors.

....Respondents

...

Mr. A.A. Devkhile for the Petitioner.

Mr. Dhairyasheel V. Sutar for Respondent No.1.

Mr. S.H. Kankal, AGP for Respondent Nos.2 to 4/State.

...

CORAM: SANDEEP V. MARNE, J.

DATE : 25 JANUARY 2023.

P.C.:

1 Petitioner/Plaintiff assails the judgment and order dated 20 September 2022 passed by the District Judge-2, Ichalkaranji in Miscellaneous Civil Appeal No.61 of 2019. By that order the District Court has set aside the order dated 7 November 2019 passed by the Joint Civil Judge Senior Division, Ichalkaranji, granting injunction in favour of Petitioner/Plaintiff by restraining Respondent Nos.1 to 5 from disturbing peaceful possession of Petitioner/Plaintiff over the suit property.

2. Petitioner/Plaintiff has filed Regular Civil Suit No.130 of 2017 seeking a declaration that the land bearing City Survey No.107 is a part of Revision Survey No.102 and that Petitioner/Plaintiff is the owner thereof. He has also sought the relief of permanent injunction from disturbing possession over the suit property. The trial Court proceeded to grant temporary

injunction in favour of the Plaintiff/Petitioner by order dated 7 November 2019 holding that even if the possession of the Petitioner over the suit property is illegal, he needs to be protected during the pendency of the suit. The District Court has reversed the order of the trial Court on 20 September 2022 holding that Petitioner/Plaintiff is an encroacher over the Government property.

3. I have heard the learned Counsels appearing for the parties. There is no dispute to the position that the name of the Government of Maharashtra has been mutated to the record of rights in respect of the suit property. This has apparently happened on 17 April 1993. My attention is also invited to the order dated 30 November 1999 passed by the Deputy Director of Land Records, Pune, holding Petitioner/Plaintiff as an encroacher. It thus, appears that Petitioner/Plaintiff prima facie does not have title to the suit property. He claims to be in possession of house constructed thereon. However, this contention is denied by Petitioner/Plaintiff's therein. Regular Civil Suit No.68 of 2018 filed against Vishwakarma Karagir Mandal in which Petitioner/Plaintiff has prayed for grant of possession of the property bearing City Survey No.102 alongwith Gram Panchayat House No.1251. The contentions and the prayers raised in Regular Civil Suit No.68 of 2018 clearly show that Petitioner/Plaintiff is not in possession of the suit property involved in the present litigation.

4 Considering the above circumstances, I do not find any error is committed by the District Court in passing the impugned judgment and order dated 20 September 2022.

5. The learned Counsel for Petitioner/Plaintiff has placed reliance on the Circular dated 1 December 2022 issued by Rural Development and Panchayat Raj Department of the Government of Maharashtra and has contended that the said Circular provides for regularization of residential structures erected on Government lands. I am afraid the Circular is not a subject matter of suit. In case, Petitioner/Plaintiff is entitled to any relief based on the said Circular, it is for Petitioner/Plaintiff to initiate appropriate proceedings for the same. The Writ Petition is devoid of merits hence, it is dismissed without any order as to costs.

6. After the present order dictated and pronounced, the learned Counsel for Petitioner/Plaintiff seeks continuation of the order of status-quo passed by this Court on 20 October 2022. Considering the findings recorded in the present order, the prayer made by the Petitioner is rejected.

(SANDEEP V. MARNE, J.)

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signed by
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KATKAM
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