

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.1423 OF 2023

Ajinder Pal Singh Tuli S/o Gurlal Singh Tuli .Vs. Ravinder Pal Singh Tuli S/o Gurlal Singh, through LRs

AND

WRIT PETITION NO.1424 OF 2023

Ajinder Pal Singh Tuli S/o Gurlal Singh Tuli .Vs. Mohabbat Singh Tuli S/o Kapoor Singh Tuli and others.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Masood Shareef, Adv. & Shri Aadil.J. Mirza, Adv. for Petitioners.
 Ms Kalyani Bhandekar, Adv. h/f. Shri A.K. Choube, Adv. for LR's of N.A./Resp. No.2
 Shri Avinash Gupta, Senior Adv. a/b Shri Akash Gupta, Adv. for Respondent No.3.
 Shri K.R. Lule, Advocate for Respondent No.4.
 Shri A.M. Ghare, Advocate for Respondent No.1 (in WP No.1424 of 2023).
 Shri S.P. Bhandarkar, Advocate for the Respondent No.1 (in WP No.1423 of 2023)
 and for respondent No.5 (in W.P. No.1424.2023).

CORAM : ANIL S. KILOR, J.

DATED : 03/08/2023

1. Heard.
2. The order below Exh.53 dated 24.02.2023 and order below Exh.43 dated 24.02.2023 rejecting the applications preferred by the petitioner for modifying / varying the status quo order dated 07.10.2022, is under challenge in these writ petitions.
3. Admittedly, parties to this petition are closely in relation with each other and there is a dispute which led

them to approach to the Arbitral Tribunal to resolve their dispute. On passing of the Arbitral Award, it was challenged under Section 34 of the Arbitration and conciliation Act, 1996 before the District Judge.

4. Thereupon, the District Judge-2, Nagpur on 07.10.2022, passed the following order:

“Learned Advocates for both the parties conceded and agreed before the Court that both the parties to the proceedings are ready to maintain the status-quo as on today till final hearing on the main application. It reveals from record and proceeding that the dispute is between real brothers and their family members. I am of the view that in order to avoid any untoward incident out of Court between the parties, it is necessary to direct both of them to maintain status-quo as on today till final hearing on main petitions under Section 34 of Arbitration Act.”

5. The award is in respect of distribution of commercial properties amongst the stakeholders.

6. After the status quo order was passed some disputes arose between the parties in respect of interpretation of the status quo order that gave cause for the respondent No.9 in the said arbitration case / petitioner to file an application for modifying of the order of status quo dated 07.10.2022, which came to be rejected. Hence, this petition.

7. From the order dated 07.10.2022 passed below Exh.26 and Exh.5, it is evident that, the status quo was granted since both the parties agreed to maintain status quo. The another reason for grant of status quo, was to avoid untoward incident out of Court between the parties.

8. It is apparent on the face of the order that on what terms or in what respect the status quo was directed to be maintained by the parties, was not clarified in the order, which is now the reason for creating further disputes between the parties, as all the parties are interpreting it in their own way.

9. The Hon'ble Supreme Court of India in the case of *M/s. Bharat Coking Coal Ltd., ..vs.. State of Bihar*, reported in **AIR 1988 SC 127**, has observed that the expression "status quo" is undoubtedly a term of ambiguity and at times gives rise to doubt and difficulty.

10. The learned Single Judge of the Madras High Court in *D.Albert ..vs.. Lalitha*, reported in **AIR 1989 Madras 73**, has observed thus:

"6. It is no doubt true that parties are well aware of the real state of things as they exist. But when they are fighting with each other, in a court of law, advancing cases diametrically opposed to each other, neither of them can be expected to meekly reconcile to the situation and stop interfering with the possession of the opposite party even if that is the real 'status quo'.

Invariably, the immediate consequence is that the party who is not in possession would attempt to get into possession by asserting that he had been in possession already and on the date of the 'status quo' order he was in possession with the result that there would be a clash between the parties leading to intervention by police and criminal proceedings. There is no justification whatever for a civil court driving the parties to criminal proceedings by passing an order of 'status quo' without indicating what the status quo is. This is nothing but a grave dereliction on the part of the civil Court of its duty to decide a disputed question of fact. The Court is bound to decide prima facie on the materials available, whether the plaintiff is in possession or the defendant is in possession. Leaving the matter in doubt and ambiguity by passing an order of 'status quo' will result in more dangerous consequences than even deciding wrongly but clearly that one of the parties is in possession.

7. I am aware that many a court including the High Court have passed orders of 'status quo' simpliciter. In fact, some time back, I came across an order of the High Court on the following lines : 'Petitioner claims to be in possession. Respondent filed a counter that he is in possession. In the circumstances, status quo should continue till the disposal of the appeal. It is obvious that such orders should not be passed by any court, high or low. Whenever a Court passes an order directing the preservation of 'status quo' it should by the same order state in unequivocal terms what the 'status quo' is. Otherwise the court will be failing to do its duty.'

11. It would be beneficial to further refer to the judgment of the Division Bench of the Karnataka High Court in the case of *N.Ramaiah .vs. Nagraj S.*, reported in **AIR 2001 Karnataka 395**, which reads thus :

“22. An order of status quo is a specie of interim orders, when granted indiscriminately and without qualifications or conditions, leads to ambiguity, difficulties, and injustice. If Courts want to give interim relief, they should endeavour to give specific injunctive

relief. If grant of order of 'status quo' is found to be the only appropriate relief, then Courts should indicate the nature of status quo, that is whether the status quo is in regard to possession, title, nature of property or some other aspect. Merely saying 'status quo' or 'status quo to be maintained' should be avoided. If in a suit for injunction, where plaintiff claims that he is in possession of the suit property and the defendant is attempting to interfere with his possession, and the defendant contends that he is in possession and petitioner was never in possession, if the Court merely directs status quo to be maintained by parties, without saying anything more, it Will cause confusion and in many cases even lead to breach of peace. On the basis of such order, the plaintiff would contend that he is in possession and he is entitled to continue in possession; and the defendant would contend that he is in possession and he is entitled to continue in possession. In such a case, if the Court wants to direct status quo, it should specify the context in which, or conditions subject to which, such status quo direction is issued."

12. Thus, from the above referred observations it is evident that the order of status quo is a specie of interim orders. Undoubtedly its a term of ambiguity and when granted indiscriminately and without qualifications or conditions, it leads to difficulties, and injustice. Leaving the matter in doubt and ambiguity by passing an order of 'status quo' will result in more dangerous consequences than even deciding wrongly but clearly. If Courts wants to give interim relief, endeavor should be to give specific injunctive relief. If grant of order of status quo is found to be the only appropriate relief, then Courts should indicate the nature of status quo, i.e. whether the status quo is in regard to possession, title, nature of property or some other aspect.

Merely saying 'status quo' or 'status quo to be maintained' should be avoided.

13. In the matter at hand, admittedly the learned District Judge while directing the parties to maintain status quo, has not in unequivocal terms clarified what is the 'status quo' is or the nature of status quo. The learned District Judge without indicating the nature of status quo, granted the same indiscriminately, which led to ambiguity and difficulties.

14. Having observed so, I am of the opinion that, without going into the merits of the matter, it would be appropriate for the ends of the justice to remand the matter back to the learned District Court for deciding the application for stay, Exh.26 and Exh. 5 afresh after hearing both the parties.

15. It is informed that certain applications are pending which need to be first dealt with before deciding application Exh.26, namely, the application for bringing legal representative of deceased non-applicant No.2. However, Ms Kalyani Bhandekar, learned counsel holding for Shri Choube, learned counsel, appears for the legal heirs of Non-applicant-Inderjit Singh Tuli, undertakes to file Vakalatnama before the District Judge on behalf of the legal heirs of non-applicant No.2.

16. In the circumstances, I pass the following order:

- i) The writ petition is **disposed of**.
- ii) The orders below Exh.53 and Exh.26 dated 24.02.2023 and 07.10.2022 respectively passed in Arbitration Case No. 296 of 2022 and orders below Exh. 43 and Exh. 5 dated 24.02.2023 and 07.10.2022 respectively passed in Arbitration Case No.309 of 2022, are hereby quashed and set aside.
- ii) The learned District Judge-2, Nagpur shall decide applications Exh.26 and Exh.5 afresh after hearing both the parties.
- iii) The learned District Judge shall decide the applications which are impediment in deciding the application Exh.26 and Exh.5 at the earliest within 10 days from 04.08.2023 and thereafter within one week, the Court shall decide application Exh.26 and Exh.5 afresh after hearing both the parties.
- v) The learned District Judge is further directed to decide the arbitration case at the earliest and

in any case within two months from the date of decision of Exh.26 and Exh.5.

- vi) Needless to mention here that till the decision of Exh.26 and Exh.5, the order of status quo shall continue.

Both Writ Petitions are **disposed of** accordingly.
No order as to costs.

JUDGE