



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 WRIT PETITION NO. 1640 OF 2024

VASUDEV SUKA PATIL

VERSUS

RAMESH NATTHU PATIL AND ANOTHER

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Advocate for the Petitioner : Mr. Vinod Prakash Patil

Advocate for Respondents : Mr. Yogesh B. Bolkar

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CORAM : ARUN R. PEDNEKER, J.

DATE : 29th FEBRUARY, 2024

PER COURT:

1. Heard.
2. In response to the oral request to file the affidavit, respondent no.2 has filed affidavit and it is stated at para 6, as under:-

“6. I say that, the petitioner purchased the property to the extent of 1600 Sq. Ft. from the respondent No.1. The deponent / respondent No.2 undertakes that, while undertaking the construction work of Water Tank, the respondent No.2 will not disturb / obstruct / damage the property / area of petitioner to the extent of 1600 Sq. Ft. The respondent No.2 further undertakes that, the respondent No.2 will take care to see that, the water from the water tank should not be entered / sprinkled on the property of petitioner to the extent of 1600 Sq. Ft., owned by the petitioner, in any manner. The appropriate way out for the water to be flown from the water tank, if any, would be made by the respondent no.2 and the respondent No.2 will take every care to see that, there should not be any hurdle for the petitioner to enjoy his property to the extent of 1600 Sq. Ft., which is purchased from respondent No.1.”

3. The affidavit is filed by the Sarpanch that while constructing the water tank care would be taken not to create obstruction to the property of the petitioner to the extent of 1600 Sq.Ft. Respondent no.2 – Sarpanch has undertaken that the water from the water tank will be prevented by appropriate measure from seeping into the property of the petitioner and that if there is excess water in the water tank, there would be an appropriate channel maintained for the overflow of the water running from the water tank.

4. In the instant case, the petitioner is challenging the dismissal of the injunction application by both the courts i.e. the trial court and the appellate court. The courts below have observed that construction of water tank is a public service and that the petitioner does not prima facie own the property and the property is owned by the person, who has gifted the property to the village panchayat. The property is used for construction of the water tank.

5. In the event, the petitioner finally succeeds in the matter, the petitioner would be entitled for the appropriate relief. No case made-out to interfere with the impugned order.

6. Mr. Vinod Prakash Patil, learned counsel for the petitioner orally submits that the petitioner had contested the elections for the village panchayat and he had lost the same and the respondent –

Sarpanch is in the process of constructing the water tank adjacent to the house of the petitioner, so as to obstruct his user of the plot in front of his house. The action of the respondent is malafide, when there is an earlier dried up water tank and the same is available for usage of the same. However, this court would not go into this issue because the order challenged before this court is an injunction order in the suit and relates to the title of the petitioner and the rights of the petitioner qua the suit land.

7. The learned counsel for the petitioner submits that he has also moved appropriate application before the concerned authority to look into this issue.

8. In the present proceedings, the grievance of the petitioner as made before the appropriate authority cannot be addressed and that I have not opined anything as regards the grievance of the petitioner before the appropriate authority.

9. The writ petition is dismissed with the above observations.

[ARUN R. PEDNEKER, J.]