



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

925 WRIT PETITION NO. 12916 OF 2023

Adesh Shivaji Vidhate

....Petitioner

VERSUS

Anita Gorakshnath Kotkar & another

.....Respondents

.....

Mr. N. B. Narwade, Advocate for the Petitioner.

Mr. D. R. Adhav, Advocate for the Respondents.

CORAM : R. M. JOSHI, J.

DATE : 20th JULY, 2024.

PER COURT :

1. This Petition takes exception to the order passed by learned Trial Court below Exhibit 40 in Regular Civil Suit No. 1307/2021 for grant of police protection to the Plaintiffs against the obstruction caused by the Defendant as alleged.

2. Learned counsel for Petitioner/Defendant submits that application Exhibit 40 mentions Gat Nos. 371/1 and 371/2 to be owned by Plaintiffs whereas the plaint indicates that the suit property is Gat Nos. 372/1 and 372/2 and not Gat No. 371/1 and 2. He further submits that though subsequently by moving an application the said Gat numbers were corrected but impugned order

passed by the Trial Court cannot sustain as the same is deemed to have been passed in respect of Gat No. 371/1 and 371/2.

3. Learned counsel for Respondent/Plaintiff supported the impugned order by pointing out application Exhibit 40 which specifically states that the Plaintiff was obstructed in Gat No. 372/2.

4. There is no dispute about the fact that in Regular Civil Suit No. 1307/2021 Exhibit 5 is allowed by the Trial Court by passing order dated 27.06.2022. Though this order is challenged by filing Misc. Civil Appeal before the District Court, however, admittedly, there is no stay granted by said Court to the order passed below Exhibit 5. As such, this order is executable as of today.

5. It is no more *res integra* that Section 151 of Code of Civil Procedure empowers the Civil Court to grant police protection for the purpose of meeting ends of justice. When there is injunction in favour of the Plaintiff and inspite of such injunction Plaintiff is being obstructed by the Defendants, it is always permissible for the Court to pass order of police protection. Needless to say that such order of police protection would be in addition to the other remedies available

to the Plaintiff for execution of the order. Having regard to these facts and considering the issues involved herein where the Plaintiff is prevented from fetching water from the well situated in the said land, this Court does not find it appropriate to exercise writ jurisdiction to cause any interference in the impugned order.

6. In view of above discussion, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb