



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6862 OF 2024

MUKUND RAMBHAU PALKAR AND OTHERS
VERSUS
ANANTA RAMBHAU PALKAR

Mr. S. A. Deshmukh, Advocate for the petitioners

CORAM : R. M. JOSHI, J.

DATE : 8th JULY, 2024

PER COURT :-

1. This petition takes exception to the order passed below Exhibit 18 dated 16/05/2024 in Civil M.A. No. 26 of 2024 whereby the application filed by the plaintiff for police protection is allowed.

2. Petitioners are defendants in RCS No. 11 of 2022. Plaintiff filed application-Exhibit 5 therein seeking injunction against the petitioners restraining them from obstructing peaceful possession of the plaintiff over the property i.e. 2 H 60 R land out of land bearing Gat No. 43 situated at village Wadigodri, Tq. Ambad, Dist. Jalna indicating boundaries thereto. This application was allowed by order dated 30th July, 2022. Though Misc. Civil Appeal No. 23/2022 came to be allowed but this Court in Writ Petition No. 11381/2022 has confirmed the order passed by the Trial Court. Thus, as of today there runs injunction against the petitioners/defendants restraining them from obstructing peaceful

possession of the plaintiff over the suit property meaning thereby *prima facie* this Court has held that the plaintiff is in possession thereof.

3. In the light of these facts an application was filed vide Exhibit 12 in Civil M.A. 26 of 2024 for seeking police protection for cultivation of the suit land. The said application was allowed. The concerned Police Officer, however, refused to execute the said order under the pretext that in RCS No. 62/2024 There is a order of status quo has been passed by the Court.

4. Learned counsel for the petitioners submits that there are disputes between the parties with regard to the boundaries of the suit property and other property and in such case it was not open for the Trial Court to pass order directing to give police protection for cultivation of the suit property by plaintiff. It is his further submission that there is order of status quo passed by the Civil Court in suit bearing RCS No. 62 of 2024 and in view of the same also question of granting police protection does not arise.

5. Section 151 of the Code of Civil Procedure provides ample powers to the Civil Court to pass any appropriate orders to meet ends of justice. It is no more res-integra that it is within the jurisdiction of the Civil Court to pass order of granting police protection for the purpose of

execution of any order passed by it. Learned Trial Court has, therefore, rightly taken into account the difference between the two properties involved in difference suits. In the instant case as observed by the learned Trial Court, the properties is in RCS No. 11/2022 and 62/2024 are different. As such, there is no question of the order of status quo passed in RCS No. 62/2024, having any bearing on the suit property in the present suit. This Court finds it absolutely unjustified on the part of Police Officer concerned to refuse to execute order passed below exhibit 12 by the Trial Court. Having regard to these facts no case is made out by the petitioners for seeking any interference in the the impugned order.

6. This Court is of *prima facie* view that the refusal on the part of the Police Officer execute order passed below Exhibit 12 in Civil M.A. No. 26 of 2024 is not justified and may attract contempt proceedings. Trial Court, therefore, is called upon to issue notice to the concerned Police Officer seeking his explanation for non compliance of order below Exhibit 12. If the Trial Court on enquiry as per law comes to the conclusion that there is contempt committed by the Police Officer in non compliance of the said order, appropriate proceeding be initiated against concerned.

7. Petition stands dismissed in above terms.

8. At this stage, learned counsel for the petitioner, on instructions, seeks withdrawal of the petition. In view of peculiar facts of case and more particularly directions issued to the Trial Court, to initiate appropriate action against concerned Police Authority, request stands rejected.

9. Registry to communicate this order to the Trial Court for compliance.

(R. M. JOSHI, J.)

ssp