



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

916 WRIT PETITION NO. 12143 OF 2024

Raju Sultan Pathan & others

....Petitioners

VERSUS

Sonali Mayur Shah & another

.....Respondents

.....

Mr. C. K. Shinde, Advocate for the Petitioners.

Mr. S. S. Bora, Advocate for Respondents.

CORAM : R. M. JOSHI, J.

DATE : 21st NOVEMBER, 2024.

PER COURT :

1. Petitioners/original Defendants in Regular Civil Suit No. 349/2023 take exception to the order dated 17.10.2024 passed by the Trial Court granting police aid to the Plaintiffs for implementation of order passed below Exhibit 5.

2. The suit is filed by the Respondents for injunction against the defendants. Admittedly, order came to be passed below Exhibit 5 whereby the Defendants are restrained from causing obstruction to the Plaintiffs in respect of the suit property. Plaintiffs filed an application vide Exhibit 46 contending that the Defendants are obstructing the Plaintiffs from doing agricultural work in the suit

property. In the light of these facts, police protection was sought which came to be allowed by the impugned order.

3. Learned counsel for the Petitioners submits that the Trial Court ought to have invoked provisions of Section 151 of Code of Civil Procedure in order to grant police aid unless exceptional circumstances were made out. It is his contention that merely on the basis of affidavit it cannot be held that obstruction is caused at the hands of Defendants to the agricultural work sought to be performed by Plaintiffs in the suit property. To support his submission, he placed reliance on judgments of this Court in Writ Petition Nos. 6795/2011 and 9716/2019.

4. Learned counsel for Respondents/Plaintiffs supported the impugned order.

5. There could not be any dispute with regard to the preposition of law laid down by the coordinate bench of this Court in the judgments cited supra. Grant of police aid is an exceptional relief and obviously it cannot be granted on mere asking. As far as present case is concerned, there is specific contention of the Plaintiffs that in

order to perform agricultural activities, there is obstruction created by the Defendants. Needles to say that agricultural activities cannot wait and as such it cannot be said that there is exigency in the present case.

6. There is no dispute about the fact that order passed below Exhibit 5 in favour of the Plaintiffs granting injunction against Defendants has not been set aside. As such, parties are bound by the same. If no police aid is granted in the circumstances as appeared in the present case, all orders passed by the Court would remain only paper order.

7. Having regard to the fact that police aid is sought for the purpose of performing agricultural work, this Court finds no reason to cause any interference in the said order. It is however clarified that this order cannot be construed as order in perpetuity. Petition is dismissed.

(R. M. JOSHI)
Judge