

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8143 OF 2024

Grampanchayat Ramwadi & Ors. .. Petitioners

Versus

Shankar Kondiba Gawade .. Respondent

.....

- Mr. Pradeep Gole for Petitioners
- Mr. Nikhil Wadikar i/by Mr. Nandu Pawar for Respondent

.....

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 12, 2024

P. C.:

1. Heard Mr. Gole, learned Advocate for Petitioners and Mr. Wadikar, learned Advocate for Respondent.

2. Impugned Judgment & Order dated 18.04.2024 is passed by the learned District Court upsetting the Exh. 5 order passed by the learned Trial Court. Both the parties having one order in their favour and are aggrieved thereby are before me.

3. *Prima facie*, it is seen that substantive reasons are given in both the orders. Needless to state that these reasons are sans trial. Suit filed by the Plaintiff (Respondent herein) who is an agriculturist is simplicitor for injunction. Undoubtedly said Suit is filed on the basis of title. Plaintiff will have to prove his title for seeking injunction.

4. Mr. Gole appearing for the Defendant - Grampanchayat would submit that the disputed suit property, namely a portion out of the ancestral property belonging to the family of the Plaintiff does not belong to the Plaintiff's family but is the property of the Grampanchayat. It appears that reliance is placed on a certain gift deed made in favour of the Grampanchayat in respect thereof. Be that as it may, these are purely disputed questions of fact. On reading both the orders passed by the learned Trial Court and the learned District Court, it is seen that both orders proceed and give substantial reasons for derivating the conclusion therein. In view of several disputed questions of fact, if this Court has to examine the issue, it would once again be without a trial. The *lis* between the parties is clearly dependent on substantive evidence which is referred to and relied upon by both the learned Courts below in their respective orders. In that view of the matter, I am of the clear opinion that this Court at an interim stage should not express its opinion by *prima facie* hearing the parties, rather interest of justice will be served if the learned Trial Court is directed by this Court to determine the Suit for injunction as expeditiously as possible in order to redress the grievance of the parties.

5. Mr. Gole would submit that the disputed suit land / property is required by Grampanchayat for an infrastructure project and therefore

this Court be pleased to expedite the hearing of the suit proceedings. This application made by Mr. Gole is fair. Be that as it may, merely because the said suit land is required for infrastructure project, rights of the Plaintiff also cannot be trampled upon. Plaintiff needs to be also given an adequate opportunity by the learned Trial Court to prove his case, if he is right.

6. In view of the above, it is directed that both the orders passed below Exh. 5 by the learned Trial Court as also by the learned District Court shall remain as they are. Both parties shall maintain status quo as on date. It is clarified that learned Trial Court shall not be influenced by any of the observations made in either of the orders and shall determine RCS No. 24 of 2024 as expeditiously as possible and in any event within a period of six months from today positively. Parties shall co-operate with the learned Trial Court and not seek any unnecessary adjournments unless absolutely necessary. Needless to state that all contentions of the parties are expressly kept open in the Suit proceedings.

7. With the above directions, Writ Petition is disposed.

[MILIND N. JADHAV, J.]

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