

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.19080 OF 2024

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Hazrat Ladleshaha PirSaheb Dargah }
Kupwad, Tal. Miraj, Dist. Sangli. }
A Public Trust registered under }
Bombay Public Trust Act. }
Having register No.B-134, Sangli, }
Through its Authorized Member, }
Ashpak Mohammadhusain Mujawar }
Age : 44 Years, Occupation : Service, }
Residing at : Ulhasnagar, Kupwad, }
Taluka : Miraj, District : Sangli. }

...Petitioner

Versus

1. **Additional Tahsildar, Sangli** }
}
2. **Sub Divisional Officer, Miraj** }
}
3. **Smt.Jannatbi Dastgir Mujawar** }
Age : 84 Years, Occupation : Housework }
}
4. **Husen Dastgir Mujawar** }
Age : 52 Years, Occupation : Nil }
}
5. **Budhan Dastgir Mujawar** }
Age : 52 Years, Occupation : Nil }
}
6. **Bibi Dastgir Mujawar** }
Age : 62 Years, Occupation : Housewife, }
Respondent Nos.3 to 6 residing at:- }
Vikrampur, Mane Plot, Athani, }
Taluka : Athani, District : Belgaum. }

...Respondents

Mr.Wasim N. Samlewale:-	Advocate for Petitioner
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CORAM : S. M. MODAK, J.

DATE : 19th DECEMBER 2024

P. C. :-

1. *Praecipe* is moved on behalf of the Petitioner by citing an artificial urgency. I realised this, when I have heard him. Along with the *praecipe*, a copy of notice issued by Additional Tahsildar – Sangli on 4th December 2024 is annexed. In that notice, three parties are described. There are certain Plaintiffs, there are certain Defendants and there are certain third parties described. The present Petitioner is the dargah and the third parties are relating to that dargah.

2. Learned Advocate for the Petitioner tried to convince me that certain urgent interim order is required. However, I am neither convinced of giving interim directions nor I am convinced that Writ Petition is maintainable.

3. In the notice dated 4th December 2024, the learned Additional Tahsildar has referred about following judicial proceedings / orders:-

(a) The order dated 17th September 1992 passed by 3rd Additional District Judge – Sangli in Regular Civil Appeal No.405 of 1987.

(b) The order dated **15th November 2017** passed below **Exhibit-43** by the Executing Court in **Regular Darkhast No.89 of 1993**.

(c) The order dated **23rd May 2023** passed by the Executing Court thereby sanctioning the वाटप तक्ता (**distribution chart**) prepared by the Executing Court.

4. Learned Advocate for the Petitioner tried to argue that the Trust is owner of the property and they have not been joined as a party to any of the proceedings and if, possession is handed over, they will lose their rights to immovable property. On this background, I inquired with the learned Advocate, whether he has annexed any of these orders referred above along with the Petition, he submitted that they are not annexed. Whether the Petitioners are parties or not, when they are filing a Writ Petition under Article 227 of the Constitution of India, they are bound to place on record the necessary orders passed by the Civil Courts.

5. On this background, he invited my attention to the Appeal filed before the Sub-Divisional Officer – Miraj. It is on Page No.157. The prayer clause reads thus:-

“Delay of 11 years and 11 months be condoned in preferring an Appeal.”

6. After reading the Application, it reveals that the Petitioner has

averred about some inaam granted by the Queen of England and about certain civil proceedings. He has also invited my attention to the said Application on Page No.147. He has sought for stay on the partition by the Executing Court. As per the Application on Page No.143, he has also sought for stay on handing over possession as per the Court partition.

7. His contention is, learned Sub-Divisional Officer has not passed any order. He requested to give those directions to the Sub-Divisional Officer. **Unfortunately, on this count also, the Petitioners have failed to convince this Court.** The reason is, in the prayer clause of the Petition, he has only challenged the notice dated 4th December 2024.

8. In view of this, this **Petition does not survive.** When I have read the prayer clause 21, sub-clauses (a) and (b), there are no prayers challenging any order passed by the Executing Court. **This Court feels that the conduct of the Petitioners in not annexing the orders passed by the Civil Court is certainly objectionable.** So, liberty is sought to withdraw the Petition. Accordingly, **it is disposed of as withdrawn.**

9. But, there has to be some check on such tendency. This Court fails to understand, why those documents / orders passed by the Civil Court are not annexed. The reason is clear. That is to say, obtain some

order by showing an urgency by withholding the orders passed by the Civil Court. Hence, I am imposing cost of Rs.5,000/- (Rupees Five Thousand) on the Petitioners. They are directed to deposit cost in the Office of this Court within two (2) weeks.

10. In view of that, following order is passed:-

ORDER

- (i) The Petition stands disposed of as withdrawn.
- (ii) The Petitioner is directed to deposit cost of Rs.5,000/- (Rupees Five Thousand) in the Office of this Court within two (2) weeks from uploading detail order.
- (iii) Let, it be also informed to the Sub-Divisional Officer–Miraj that this Court has imposed cost and even, he can direct the Petitioners to pay the cost.
- (iv) The Sub-Divisional Officer–Miraj is at liberty to go on with the proceedings pending before him.
- (v) It is made clear that this Court has not expressed any opinion about the merits of the claim.

11. Parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]