

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1650 OF 2023
IN
WRIT PETITION (ST.) NO.814 OF 2023

Sarpanch, Gram Panchyat Helgaon and Anr. .. Applicants

IN THE MATTER BETWEEN:

Krishnat Bhikoka Patil .. Petitioner

Versus

Sarpanch, Gram Panchyat Helgaon and Anr. .. Respondents

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- Mr. Pratap Patil, Advocate for Petitioner.
- Mr. Pranot P. Pawar, Advocate for Respondents.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 24, 2024

P.C.:

1. Heard Mr. Patil, learned Advocate for Petitioner and Mr. Pawar, learned Advocate for Respondents.

2. Mr. Patil has argued and drawn my attention to the order passed below Exhibit-5 by the learned Trial Court as also the order passed by the learned Appellate Court reversing the Exhibit-5 order.

3. Mr. Pawar, learned Advocate appears for the Respondent-Gram Panchyat Helgaon.

4. Briefly stated the Petitioner was inducted into the suit property i.e. a structure admeasuring 17' X 10' (170 sq.ft) by Defendant Nos.1 and 2, 22 years ago as contended by Plaintiff. There is a rental agreement dated 10.10.1997 executed between the parties.

5. However, Mr. Pawar would refute and submit that induction of the Plaintiff was by Defendant No.1 only. Admittedly, Plaintiff continues to occupy 170 sq.ft. Structure till date and is running a shop therein. Monthly rent was received until the year 2004 after which acceptance of rent from the Plaintiff was stopped by Defendants. Notice was issued by a Defendants in the year 2014 followed by further notice for vacating the suit structure in the year 2016. Plaintiff being aggrieved filed the Civil suit in the year 2017. Mr. Patil would fairly submit that the suit is filed for injunction only.

6. Be that as it may, ouster of Plaintiff has to be by following the due process of law. In the course of submissions advanced by both the learned Advocates before me it transpires that land beneath the suit structure is required by Defendants for laying of water pipeline to supply water to the village. Hence in order to carry out the said work, notice was issued in the year 2014 followed by a subsequent notice in the year 2016.

7. On being asked by the Court as to whether the work still subsists, Mr. Pawar would submit that the work is an ongoing work and continues till today. However, without prejudice to the rights and contentions of the Defendants, Mr. Pawar would further submit that if the Defendants identify an alternative place to be offered to the Plaintiff then this Court should impress upon the Plaintiff to consider that proposal and shift to the alternate place to enable the Defendants

to use the land beneath the suit structure for laying of water pipeline. Mr. Pawar has drawn my attention to various resolutions passed by the Gram Panchayat with respect to laying of water pipeline on the land beneath the suit property.

8. He would submit that he will take appropriate instructions and if it is possible for the Defendants to identify an appropriate alternate place to shift the Plaintiff, the proposal shall be placed before this Court on Affidavit alongwith an appropriate plan so as to enable the Plaintiff to consider the same. He would submit that Affidavit shall be filed within a period of two weeks from today.

9. Appropriate orders and directions shall be passed by this Court on the next adjourned date. In the meanwhile, both learned Advocates are directed by the Court to inform the precise status of Regular Civil Suit No.112 of 2017 before Trial Court on the next adjourned date.

10. In the meanwhile, ad-interim relief granted by this Court shall continue. Interim Application filed by Defendants to vacate the ad-interim relief stands rejected in view of the observations made in this order.

11. List the Writ Petition on **07th February, 2024.**

12. Interim Application is disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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