

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.22 OF 2024

Jotiba Pandurang Gavade

.. Applicant

Versus

Gramsevak Grampanchayat

.. Respondent

WITH

INTERIM APPLICATION NO.312 OF 2024

-
- Ms. Shabana Sothe a/w. Ms. Rupali Sawant i./by S. P. Associates,
Advocates for Applicant.
-

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2024

P.C.:

- 1.** Heard Ms. Sothe, learned Advocate for Applicant.
- 2.** With her able assistance I have perused the twin orders, firstly order dated 26.09.2023 passed by the learned Trial Court rejecting Exhibit-5 Application which is at Exhibit-M page No.114 of the Civil Revision Application and further order dated 31.10.2023 passed by the learned Appellate Court which is at Exhibit-A, page No.23.
- 3.** Question that arises for consideration emanates from the notice of encroachment given by the Gram Panchyat to the Petitioner / Plaintiff which I find at Exhibit-D, page No.56 of the Writ Petition.
- 4.** Though Ms. Sothe would submit that said notice is innocuous as it does not mention any details of the property stated

therein, as a measure of abundant caution the Applicant / Plaintiff immediately approached the Trial Court and filed a suit for injunction on 08.05.2023. Prior to the filing of the said suit record reveals that wife of the Plaintiff had also filed a First Information Report on 25.03.2023 against members of the Gram Panchyat for stealing their livestock from the suit property.

5. Perusal of paragraph No.8 of the plaint *prima facie* case, gives the impression that Plaintiff constructed two sheds for keeping his livestock in the open space in front of his house property situated in the village. It appears that the Gram Panchyat issued the impugned notice dated 01.05.2023 to the Plaintiff in respect of these two sheds constructed by the Plaintiff on the open land in front of his house property claiming the said land as belonging to the Gram Panchayat. It is argued by Ms. Sothe that the open land in front of Plaintiff's house where the two sheds are situated were infact renovated and not constructed. These were being used by the Plaintiff and Plaintiff's family for keeping their livestock and other incidental and ancillary things since long.

6. She would submit that there is adequate material in the form of assessment record to show that this open property was all long in the possession of the Plaintiff. In that regard she has referred to relied upon the assessment record in respect of the suit land at

Exhibit-B of the Writ Petition. In respect of the Applicant / Plaintiff's claim, the assessment record, *inter alia*, pertaining to the period of 1993 – 1994 to 1996 – 1997 is relied upon by her to show that the house of the Plaintiff is described alongwith the “shed” which is stated in Marathi language therein. I have perused the same.

7. In view of the above, an arguable case has been made out by Ms. Sothe for issuance of notice and stay of the impugned order.

8. Hence, issue notice to the Respondent. Applicant is directed to serve the Respondent. Humdast permitted. In addition to Court's notice, Applicant is permitted to serve copy of the Civil Revision Application alongwith copy of this order which shall be served on Respondent – Gram Panchyat within a period of two weeks from today and inform the Respondent about the next date of hearing by any permissible mode of service and file appropriate affidavit of service with tangible proof thereof. Respondent is directed to file Affidavit-in-Reply to the Application within a period of one week if so desired.

9. The impugned order at Exhibit-A stands stayed. Respondent - Gram Panchyat is directed to remain present either by an authorised representative or through Advocate.

10. In the meanwhile, no coercive steps shall be taken

subsequent to the impugned order at Exhibit-A to the Civil Revision Application by the Gram Panchayat or any authorities until the present Application is heard for admission.

11. Stand over to **31st January, 2024.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

Digitally signed by
HARSHADA
HANUMANT
SAWANT
Date: 2024.01.11
18:32:56 +0530