IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2500 OF 2024

Gulabrao Bhikoba Rupnawar & Anr. .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents

Mr.Manoj Patil i/b Gaurav Nankar, Advocates for the Petitioner.

Mr.A.I. Patel, Addl.G.P. for State/Respondent.

CORAM: B. P. COLABAWALLA &
SOMASEKHAR SUNDARESAN, JJ.
DATE : FEBRUARY 22, 2024

P. C.

1. The above Writ Petition is filed seeking a following reliefs:-

"(a) *Rule be issued. Record and proceedings be called for.*

(b) *This Hon'ble Court be pleased to issue writ of mandamus and or any other writ, order and or direction and to direct the office of Respondent No.1/Ld.Minister of Revenue Affairs, Maharashtra State at Mumbai to issue copy of the say order dt. 13/02/2024 passed on the stay application in Revision Application No.2182 of 2023.*

(c) *This Hon'ble Court be pleased to issue writ of certiorari and or any other appropriate writ, order and or direction and to quash and set aside the impugned possession notice dt. 29/01/2024 issued the Ld. Tahsildar of Phaltan.*

(d) *During the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to direct to the office of Respondent No.1/Ld.Minister of Revenue Affairs, Maharashtra State at Mumbai to issue copy of the stay order dt.13/02/2024 passed on the stay application in Revision Application No.2182 of 2023.*

(e) *During the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the effect, implementation and operation of the impugned possession notice dt.29/01/2024 issued the Ld.Tahsildar of Phaltan and further pleased to direct to the revenue officials not to take any coercive action for dispossession based on the impugned possession notice dt.29/01/2024."*

2. The urgent relief that is sought is to stay the effect, implementation and operation of the impugned possession notice dated 29th January, 2024 issued by the learned Tahsildar of Phaltan scheduling the taking of possession on 23rd February, 2024 at 11.00 a.m.

3. In the facts of the present case, Respondent Nos.7 and 8 filed Road Case No.28 of 2015 under Section 143 of the Maharashtra

Land Revenue Code, 1966. In the said Road Case the present Petitioners were Original Opponent Nos.1 and 4. This Road Case was resisted by the Petitioners. According to the Petitioners, the learned Tahsildar of Phaltan, erroneously allowed Road Case No.28 of 2015 by his order dated 13th April, 2016.

4. Being aggrieved by this order, the Petitioners filed RTS Appeal No.97 of 2019 before the learned Sub Divisional Officer, Phaltan on various grounds. The learned Sub Divisional Officer, Phaltan, by his order dated 30th August, 2021, upheld the order of the learned Tahsildar dated 13th April, 2016 and dismissed RTS Appeal No.97 of 2019.

5. Being aggrieved by the order of the learned Sub Divisional Officer, Phaltan the Petitioner filed Second RTS/Appeal No.230 of 2021 before the learned Additional Collector, Satara. This Appeal came to be allowed on 9th December, 2021, and the Additional Collector, Satara quashed and set aside the order of the learned Sub Divisional Officer, Phaltan dated 30th August, 2021 and that of the Tahsildar dated 13th April, 2016.

6. Being aggrieved by the order of the Additional Collector, Satara (dated 9th December, 2021) the present Respondent Nos.7 and 8 approached the learned Additional Divisional Commissioner, Pune Division, Pune by way of RTS Revision No.12 of 2022. This Revision was allowed by the learned Additional Divisional Commissioner by his order dated 1st September, 2023. Being aggrieved by this order, the Petitioners approached the learned Revenue Minister by filing Revision Application No.2182 of 2023 under Section 257 of the Maharashtra Land Revenue Code, 1966. Since the order of the Additional Divisional Commissioner, Pune Division, Pune was impugned before learned Revenue Minister the Petitioners moved the Revenue Minister for urgent hearing as the Petitioners received possession notice for execution of the impugned order.

7. It is the case of the Petitioner that learned Revenue Minister after considering the urgency and gravity of the matter immediately took up the matter for hearing on a stay application. The grievance made today is that till the date that stay order has not been made available and the possession is scheduled tomorrow.

8. Taking these peculiar facts and circumstances into consideration and especially considering that the stay order passed by the learned Revenue Minister is not yet communicated to the Petitioners or to the authorities below, we think this is a fit case to grant interim relief in terms of prayer clause (e) which reads thus:-

> *"(e) During the pendency and final disposal of the present writ petition, this Hon'ble Court be pleased to stay the effect, implementation and operation of the impugned possession notice dt.29/01/2024 issued the Ld.Tahsildar of Phaltan and further pleased to direct to the revenue officials not to take any coercive action for dispossession based on the impugned possession notice dt.29/01/2024."*

9. We now place the above matter on board for directions on 27th February, 2024.

10. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[SOMASEKHAR SUNDARESAN,J.] **[B. P. COLABAWALLA, J.]**

Utkarsh