

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14952 OF 2024

SATISH
RAMCHANDRA
SANGAR

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SATISH RAMCHANDRA
SANGAR
Date: 2024.12.07
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Ramchandra Ajitsinh Patankar

Age : 76 Years, Director of Patankar

Hotel Enterprises Pvt. Ltd., Residing at:-
204, E Ward, New Shahupuri, Tourist Hotel,
Patankar Bungalow, Kolhapur **and Others**

...Petitioners

Versus

Kiran Prakash Patil

Age : 38 Years, Occupation : Business
and Social Work, Residing at:- Flat No.7,
C.S. No.1019, Aptenagar, A Ward,
Radhanagari Road, District : Kolhapur
and Another

...Respondents

WITH
WRIT PETITION NO.16036 OF 2024

Patankar Hotel Enterprises Pvt. Ltd.

Director : Ramchandra Ajitsinh Patankar

Age : 76 Years, Residing at:- 204, E Ward,
New Shahupuri, Tourist Hotel, Patankar
Bungalow, Kolhapur.

...Petitioner

Versus

Vijay Baburao Bakre

Age : 41 Years, Occupation : Agriculture
and Social Work, Residing at:- Plot No.7,
C.S. No.1019, Aptenagar, A Ward,
Radhanagari Road, District : Kolhapur
and Others

...Respondents

Satish Sangar

Mr.Yuvraj Narvankar:-	Advocate for Petitioners.
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CORAM : S. M. MODAK, J.

DATE : 22nd NOVEMBER 2024

P. C. :-

1. Heard learned Advocate Shri.Narvankar in both the Petitions for the Petitioners. They are the Defendants in two suits filed before the Court of Civil Judge, Senior Division, Kolhapur.
2. The order which is challenged in both these Petitions is about granting of leave to file suit under Section 91(1)(b) of the Code of Civil Procedure, 1908 (“CPC”).
3. The contention is, the Respondents in these Petitions have cleverly bye-passed the observations given by this Court in Writ Petition No.1876 of 2023 and Writ Petition No.1877 of 2023 on 18th July 2023 (Page No.28) and in order to deny an opportunity of hearing to these Petitioners who are the Defendants of hearing, have chosen to file fresh suits. My attention is invited to the observations in Para No.9 of the said order.

4. The Court needs to see whether the dispute raised in earlier two suits which is the subject matter of disputes of Writ Petitions and the dispute in the two suits which is the subject matter of these Petitions are similar or not.

5. Mr.Narvankar agrees to file necessary papers.

Later on:-

6. I have heard learned Advocate Shri.Narvankar for the Petitioners/Sole Petitioner who are three Defendants in suit bearing No.R.C.S.No.623 of 2024 and Defendant No.2 in R.C.S.No.644 of 2024. The issue is common in both the Petitions. It is whether the trial Court was justified in granting leave to file a suit as per the provisions of Order I, Rule 8 of CPC on account of public nuisance and other wrongful acts as contemplated under Section 91 of CPC.

7. According to Mr.Narvankar, this Hon'ble Court as per order dated 18th July 2023 passed in Writ Petition No.1876 of 2023 and 1877 of 2023 has given certain directions to hear the proposed Defendants prior to granting leave (Paragraph No.9). The details of suits involved in those two disposed of Petitions and the suits involved

in present two Petitions are as follows:-

R.C.S.No.503 of 2022 leave granted on 27.09.2022	(1) Kiran Prakash Patil (2)Shivprasad Kakade-Plaintiffs	Writ Petition No.1876/2023	Disposed of on 18 th July 2023
S.C.S.No. Not clear : leave granted on 27.09.2022	(1)Vijay Baburao Bakare (2)Onkar Ashok Bodhe-Plaintiffs	Writ Petition No.1877/2023	Disposed of on 18 th July 2023

8. The submission is in order to give go-bye to the order dated 18th July 2023, the Plaintiff No.1 – Kiran Patil and Plaintiff No.1 – Vijay Bakre by joining another Plaintiff in every suit (which were not the co-plaintiffs in earlier suits) have filed the following suits:-

R.C.S.No.623 of 2024 : leave granted on 15.06.2024	(1)Kiran Prakash Patil (2)Ankush Karande-Plaintiffs	Writ Petition No.14952 of 2024
R.C.S.No.644 of 2024 : leave granted on 15.06.2024	(1)Vijay Baburao Bakare (2)Ankush Karande-Plaintiffs	Writ Petition No.16036 of 2024

9. On this background, I have gone through the impugned orders challenged in these Petitions. The earlier two disposed of Petitions

though not all but some of the parties are also some of the parties involved in two new suits and present Petitions. If any of the party wants to give a go-bye to the observations of this Court in earlier disposed of Petitions, this Court is required to interfere in the matter. On the directions given by this Court, learned Advocate Mr.Narvankar has produced the copies of complaints filed earlier. The prayers made in those suits are for restraining the Defendants from carrying out the construction and creating third party interest and for entering the name on the revenue record. Whereas, the relief sought in present suits are for declaration that there is a breach of the condition and for declaration that the entry in the revenue record is nullity and illegal. The reliefs in all the suits are somewhat different but the foundational facts are the same. In view of that, I am inclined to grant an ad-interim relief in terms of prayer clause (b) of the Petition. It reads thus:-

“b. *that pending the hearing and final disposal of the above Writ Petition, this Hon’ble Court be pleased to stay the implementation, execution and effect of the Order dated 15th June 2024 in Regular Civil Suit No.644 of 2024 passed by Ld. Civil Court Senior Division-7 at Kolhapur.*”

10. Hence, issue notice before admission to the private Respondents returnable on **21st January 2025**. Private notice, in addition, is allowed.

Affidavit of service be filed.

11. **Till next date, an ad-interim relief is granted in terms of prayer clause (b) as reproduced above.**

[S. M. MODAK, J.]