

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13464 OF 2023

Dinkar Chandar Kamble & Ors

..Petitioners

Versus

Ismail Babalal Shaikh & Ors

...Respondents

Mr. Prashant Bhavake, for the Petitioner.
Mr. Shrikrishna Ganbavale, with Mr. Shantanu Patil, i/b Aditya
Raktade, for Respondent Nos. 1 to 8.

CORAM: N. J. JAMADAR, J.

DATED : 16th JANUARY 2025

P.C.:

- 1.** Heard learned Counsel for the parties.
- 2.** The challenge in this Petition is to an order dated 28th November 2022, passed by the learned Civil Judge, Senior Division, Jaysingpur, on an application to direct the Tahshildar, Shirol to maintain status-quo in the matter of execution of decree passed in RCS No. 10 of 1972.
- 3.** By the said order, the learned Civil Judge was persuaded to reject the application. However, the status-quo was ordered to be maintained till the Appeal period was over. The Petitioner approached this Court.

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4. By an Order dated 6th January 2023, this Court extended the status-quo granted by the trial court till the next date, i.e., 3rd February 2023. The status-quo has since been continued.

5. The situation which thus emerges is that an application for temporary injunction in Special Civil Suit No. 15 of 2020, instituted by the Petitioners, still awaits adjudication. There is a chequered history of litigation commencing from the suit instituted in the year 1972, the final decree in which is put to execution. All the questions in controversy, cannot be legitimately examined in exercise of supervisory jurisdiction against an order refusing to grant status-quo, especially when the application for temporary injunction is pending before the trial court.

6. It is, therefore, imperative that the application for temporary injunction itself is decided by the trial court. However, since the suit was instituted in the year 1972, it may be expedient to request the trial court to decide the said application within a time frame.

7. In these circumstances keeping all the issues open, the Petition stands disposed with the following directions.

- (i) The Petitioners-Plaintiffs shall move their application for temporary injunction for hearing before the trial court.

(ii) The said application be posted for hearing on 21st January 2025.

(iii) The parties shall appear before the trial court on 21st January 2025.

(iv) The Petitioners-Plaintiffs shall not seek any adjournments in the said application, on any count whatsoever. The learned Counsel for Respondent Nos. 1 to 8- the original Defendants makes a statement that Defendant Nos. 1 to 8 will not seek any adjournment in the said application for temporary injunction.

(v) In the meanwhile, the status-quo granted by this Court shall continue to operate till the decision of the said application for temporary injunction or a period of two months from 21st January 2025, whichever is earlier.

(vi) It is, however, made clear that, under no circumstances, the order of status-quo passed by this Court shall continue after the expiry of two months from 21st January 2025.

(vii) Petition disposed.

[N. J. JAMADAR, J.]