

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16157 OF 2024

Suman Suresh Dharmadhikari (Died) Through ..Petitioner
Legal Heir Kuldeep Vishnupanth Patil

Versus

Ashok Govind Dharmadhikari & Anr ...Respondents

Mr. Sandeep Koregave, with Pallavi A Karanjkar, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 4th MARCH 2025

P.C.:

- 1.** Heard learned Counsel for the petitioner.
- 2.** The challenge in this petition is to an order dated 9th May 2024 passed by the learned Civil Judge, Senior Division, Kolhapur, whereby an application preferred by the petitioner to provide the police protection to remove the lock and the iron gate put by the defendants on the subject premises came to be rejected.
- 3.** Initially, an interim injunction was granted by the Trial Court on 4th November 2019 restraining the respondents from causing obstruction to the possession of late Suman, the deceased plaintiff.
- 4.** After the demise of late Suman, the petitioner came to be substituted. The petitioner filed an application (Exhibit “112”) for grant

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of police protection as the defendants were threatening to cause obstruction to the possession of the petitioner qua the suit property. By an order dated 17th September 2022, the said application was allowed.

5. It seems when the order was sought to be executed under the police protection, it was found that the defendants had put an iron gate and lock to the suit property. The petitioner thus filed another application purportedly under Section 151 of the Code of Civil Procedure 1908 (“the Code”) seeking police protection to remove the lock and iron gate.

6. By the impugned order, the said application came to be rejected. The learned Civil Judge was of the view that under Section 151 of the Code the Court could not lend its assistance in the manner sought by the petitioner.

7. Mr. Koregave, learned Counsel for the petitioner submitted that the Court has recorded a finding that the defendants have entered into the possession of the suit property after the demise of late Suman, the original plaintiff, in teeth of the earlier orders passed by the Court.

8. The impugned order is not susceptible to challenge. If it is a case of the petitioner that there is a breach of the injunction order passed by the Court, the proper remedy is to file an appropriate proceeding under Order XXXIX Rule 2A of the Code. If the Court finds that there is breach

of the injunction order appropriate measures can be taken by the Trial Court to enforce the said order.

9. In the event such an application is filed, the Court will decide the same on its own merits and in accordance with law without being influenced by the observations in the impugned order.

10. Petition disposed.

[N. J. JAMADAR, J.]