

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 6418 OF 2024

Durgesh Nandakishor Gupta and others

Vs.

Harish Jagannath Gupta and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Shukla, Advocate for petitioner

Shri Kunal Pande, Advocate h/f Shri V.R. Deshpande, Advocate for respondent Nos. 1 & 2

CORAM : SMT M.S. JAWALKAR, J.

DATE : 23/01/2025

Heard learned Counsel for the petitioners and learned Counsel for respondent Nos. 1 and 2.

2. The petition challenges the order passed below Exh.36, granting police protection to the plaintiff. By the application Exh.36, plaintiff sought one day police protection for rotaveting the suit field by rotavetor. The learned Trial Court after hearing both the parties and considering citations relied on by the parties, granted temporary injunction. Plaintiff sought temporary injunction against the defendant. The said Exh.5 came to be allowed and till the decision of the suit, it was directed to the defendant not to obstruct possession of plaintiff. Against said order below Exh.5, defendant preferred Misc. Civil Appeal No. 9/2024. The said

appeal came to be rejected on 12/07/2024. The said order came to be challenged in Writ Petition No. 4508/2024, which was disposed of with direction to decide Regular Civil Suit No. 10/2024, within nine months. However, there is no order in respect of injunction granted earlier and confirmed by the Appellate Court.

3. Learned Counsel for petitioner relied on judgment of this Court in *Shivaji Shankar Jadhav and another Vs. Laxman Gajanan Godbole, 2018 SCC Online Bom 11737*, wherein this Court held as under :

"14. Let me advert to the present case. In paragraph Nos. 5 and 6 of the application of the respondent/plaintiff, the apprehension so also offensive activities done by the petitioners are mentioned. On perusal of these two paragraphs, it clearly appears that if the fact are true, then the cognizable offence is made out. If it is a cognizable offence, then it is necessary for the plaintiff to approach the police further. After verifying the things, it is mandatory on the part of the police to register case if cognizable offence is made out."

4. In the present matter, it appears that there were attempts made by the defendant that 20 quintal soybean worth Rs.90,000/- were stolen from the field of plaintiff, for that he approached to the Police. However, offence was not registered. Therefore, criminal application before the JMFC, Mangrulpir, District Washim, under Section 156(3) of the Cr.P.C. came to be filed. Thereafter, by the order of Court, offence came to be registered under Section 379 read with 34 of the Indian Penal Code against the defendants. As

temporary injunction is in favour of plaintiff and that order is still in force and in view of the background of the litigation, I do not see any irregularity and illegality in granting one day police protection to the plaintiff. The facts involved in the citation relied on are not similar facts involved in this matter. There is allegation that threats were given by the defendants and also in view of the earlier complaint and First Information Report registered against the defendants, due to which apprehension appears to be sound. As such, petition is dismissed.

5. The learned Trial Court to grant Police Protection as per the date given by the plaintiff.

6. The plaintiff shall pay the expenses for protection in Mangrulpir Police Station.

7. The learned Trial Court is also directed to take endeavour to decide the suit within time prescribed by this Court.

8. Petition stands rejected.

(SMT M.S. JAWALKAR, J.)