

ORDER ON APPLICATION EXH.27 FOR POLICE AID
FILED BY PLAINTIFF.

01. Plaintiff had originally filed an application Exh.27 for grant of police aid against defendants for doing agricultural operations in the land gut No.825/2/2 admeasuring 0-H 67-R situated at village Pimpalgaon Hareshwar, Tq. Pachora Dist. Jalgaon. This application Exh.27 was rejected by the learned predecessor of this court on 04-04-2014. However, this court has received Writ Exh.35 from the Honourable High Court, Bench at Aurangabad in Writ Petition NO.5090 of 2014 arising out of the order passed on application Exh.27, whereby the Hon'ble High Court has directed the parties to the suit to advance arguments on this application afresh. Therefore, I have passed order on application Exh.27 and restored it to its position as was subsisting on 3rd April, 2014 as per the order of the Honourable High Court. In this context, I have heard learned counsel Mr VN Deore for plaintiff and Mr CS Sharma, advocate for defendants.

02. Facts as enumerate from the application, in brief, are that, plaintiff had submitted an application Exh.6 in this suit claiming temporary Injunction against defendants in respect of 0-H 67-R land out of land gut NO.825/2/2. It was rejected by the court on 17-06-2013. Plaintiff instituted Misc. Civil Appeal bearing No.57/2013, which was allowed and order on Exh.6 was

set aside. That order has become final as there is no stay granted by any court.

03. Plaintiff further alleges that on 24-02-2014 she had been to the suit field in her possession for doing agricultural operations, at that time defendant obstructed her and threatened to cause grievous hurt. It is also averred that some agricultural operations need to be done in the suit property in possession of plaintiff, which is not possible otherwise than by police protection. As such plaintiff claims police aid for one day for doing agricultural operations in the suit field.

04. Defendants through learned counsel Mr CS Sharma submitted their say below application Exh.27 itself and contended that plaintiff can take recourse to civil remedy provided under Order XXXIX Rule 2-A of the Code of Civil Procedure and that this application is not tenable.

05. Mr Deore, counsel for plaintiff during his arguments referred some Case-laws i.e. (1) Shrimati Ratnabai Vs. Shri Satwarao **AIR 1995 Bombay 61**, (2) Papanna Vs. Nagachari **AIR 1996 Karnataka 256**, (3) Polavarapu Vs. Parchuri **2011(2) Civil Court Cases 0333**. I have minutely perused these Judgments of the Honourable High Courts.

06. Learned counsel Mr VN Deore for plaintiff argued

that the Hon'ble District Court Jalgaon has allowed temporary Injunction application Exh.6 and plaintiff wants to do agricultural operations in the suit field in their possession, for which obstruction is being caused by defendants. This argument of plaintiff has been resisted by learned counsel Mr CS Sharma for defendants on the ground that there is no obstruction from defendants to the plaintiff and if at all there is any obstruction, plaintiff has recourse to other civil remedy provided in the Code of Civil Procedure.

07. Mr VN Deore for plaintiff submits that the plaintiff has made out a fit case in which police aid as prayed should be granted and he relied upon the Judgements of the Honourable High Courts as stated hereinabove. No doubt police protection for implementing orders of Injunction can be granted by courts by invoking powers vested in it under Section 151 of the Code of Civil Procedure. However, I disagree with the submissions of learned counsel for the plaintiff, for the reasons that for invoking powers under Section 151 of the Code of Civil Procedure, the party seeking such police aid should show to the court the grave emergency for this relief and the court must be fully convinced of the fact that to prevent commission of cognizable offence, it is necessary to do so. This is the basic requirement for grant of police aid as has been observed by the Honourable High Court of Bombay in the above mentioned case-law No.1 referred by the plaintiff themselves. This basic requirement for grant of police

aid is lacking in this application.

08. It is pertinent that the order of the Honourable District Court Jalgaon in Misc. Civil Appeal No.57 of 2013 is passed on 5.2.2014 allowing temporary injunction application Exh.6 of plaintiff. Plaintiff in this application says that she had been to the suit field in her possession on 24.2.2014 and then defendant obstructed her and threatened to cause grievous hurt. Again when this application was being heard afresh, then also plaintiff No.1 Sumanbai submitted fresh affidavit Exh.36 and stated that on 04-10-2015 again defendant obstructed plaintiff from the suit field and threatened to kill. These are the mere allegations against defendants. If really there was obstruction and threatening to cause grievous hurt or threatening to kill alleged to be given by defendants, then certainly plaintiff would have lodged report against the defendant with the concerned police station or would have taken recourse to other remedies provided under the law. However, plaintiff has not submitted any copy of any such report against the defendants or has not taken any recourse to other remedies under the law, for the reasons better known to the plaintiff only.

09. It is to be noted that mere allegations of obstructions are not sufficient for the purpose of invoking powers under Section 151 of the Code of Civil Procedure. Plaintiff was

required to bring on record some material to show that really the defendants are obstructing implementation of judicial order. With all respect I say that the facts mentioned in the case-laws submitted by the plaintiff are different with the facts of this case. Therefore as the plaintiff failed to show grave emergency and to convince the court for invoking this power U/s 151 of the CPC, I do not want to exercise this power at present in favour of the plaintiff. Hence application Exh.27 is liable to be rejected. So I pass following order:

ORDER

- I. Application Exh.27 stands rejected.
- II. Costs in main cause.

November 6th, 2015.

(MD. TAHER BILAL)
Jt Civil Judge(Jr.Dn.) Court No.2,
Pachora.