

ORDER BELOW EXH. 32 IN R.C.S.No.07/2010
(Passed on 05.02.2013)

NATURE OF THE APPLICATION

1. This is an application filed by the defendant seeking police protection to implement the order below exh.11 and U/s.151 of C.P.C.

FACTS IN THE APPLICATION

2. The defendant has contended that as per order below exh.11 the plaintiffs are rORDER BELOW Exh.43 apln seeking Police protection - grantedestrained temporarily from causing obstruction and interference in the peaceful possession and personal cultivation of the defendant over the suit lands by any manner by themselves, or through anybody on their behalf till final disposal of the suit on dated 3/2/2012. But despite that, plaintiffs and their family members by committing breach of the said order and without having any right, title and interest did not stopped but still continued their unlawful activities of causing obstruction and interference in the peaceful possession and cultivation of defendant in the suit lands. Plaintiffs are disobeying the court's order. Therefore, it is necessary to direct the police to give protection with the armed police to the defendant to implement the order below Exh.11 and to stop the high handedness activities of the plaintiffs in the suit lands. On these grounds the plaintiffs have prayed to grant the application.

SAY OF PLAINTIFFS

3. Plaintiffs have filed their say and denied all contention raised by defendant in the application. Plaintiffs have preferred an appeal

against the order below Ex. 11 and it is pending for adjudication on merits in appellate court. They further stated that, order of temporary injunction can not be implemented with the aid and use of the police authority. Hence, it is necessary to reject the application.

THE ARGUMENTS

4. I have heard, Shri.S.S.Kot, advocate for the plaintiffs and Shri. V.G. Desai advocate for defendant, at length. They have argued in consonance of their application and say.

POINTS AND FINDINGS

5. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow.

<u>POINTS</u>	<u>FINDINGS</u>
1. Can the police protection be given to the defendant, as prayed for?	Yes.
2. What order?	Application granted as per final order.

REASONS AS TO POINTS Nos.1

6. Advocate for defendant has relied on Smt. Ratnabai Narayanrao Naik and anr. Vs. Shri. Satwarao Narayanrao Naik, AIR 1995 Bombay, 61, wherein hon'ble Bombay High Court has held that, application for grant of police aid for protecting possession is maintainable after order of temporary injunction.

7 I would also like to rely on Papanna Vs. Nagachari and other,

reported in AIR 1996 Karnataka,256; wherein His Lordship has held

“Civil P.C.(5 of 1908), O.39,R.2A,S.151- Order of temporary injunction-- Disobedience of --application under S.151 for an order from Court directing police to give protection to plaintiff- Mere fact that proper remedy is to move Court under OORDER BELOW Exh.43 apln seeking Police protection - granted.39,R.2A-- Does not prevent Court from taking steps to implement its own orders- Court has jurisdiction to order police protection in such circumstances”.

8 In the present matter, the plaintiffs are restrained temporarily from causing obstruction and interference in the peaceful possession and personal cultivation of the defendant over the suit lands by any manner by themselves or through anybody on their behalf till final disposal of the suit by order below Ex. 11. Though, it is brought on record by the plaintiffs that, they have filed appeal against the order passed below Ex.11 but neither such any stay is communicated by the appellate court in this proceeding nor both parties have stated about the stay to order below Ex. 11. Therefore, order passed below Ex. 11 by my learned predecessor on dated 3/2/2012 stands as it is.

9. I am prima-facie satisfied that the plaintiffs are taking law in their own hands and are attempting to interfere in the suit lands as held while passing order below at exh.11 by my learned predecessor. In view of the principles laid down in the case relied supra I am of the considered view that when my learned predecessor has prima-facie considered the matter and granted temporary injunction in favour of

the defendants after hearing both parties on merits. In such circumstances, this court has to enforce the said order. Therefore, I

answer point No. 1 as yes and I am inclined to grant this application. In the result, the following order.

O R D E R

1. The application Exh.32 is granted as here-in-below:-
 - i) The P.S.I. Police-station, Chandgad is directed to give police protection to the defendant and to assist him in implementing and enforcing the order passed below exh.11 which will enable the defendant to protect his possession in suit lands and to stop high handedness activities of the plaintiffs.
 - ii) The P.S.I. Police-station Chandgad is directed to give two male police constables to assist the defendant in implementing and enforcing the order
 - iii) The defendant is directed to deposit necessary 'Police Bhatta' in accordance with law on or before 21-02-13 in police station and submit its receipt in court; failing which the application shall stand rejected, automatically.
2. The '*Hamdast*' allowed , if prayed.
3. Defendant to provide copy of this application, order at Exh.11 to concern P.S.I. Police-station Chandgad

(Pronounced in Open Court).

Dt.05-02-2013
Chandgad

Sd/-
(**P.M.Patil**),
C.J.J.D.& J.M.F.C.
Chandgad

