



**Order below Exh. 102 in R.D. No. 53/2017.**

This is an application made by the Decree holder for grant of police aid to enforce an order passed in his favour vide decree in R.C.S.No.96/1985. It is contended that the D.H. is enjoying the possession of block No. 310 situated at village Katebhogaon, Taluka Panhala, District Kolhapur. The D.H. took crops like rice, groundnuts and sugarcane in the said land. Now the said crops are ripen and about to harvest. However, there is possibility of raising dispute by J.Ds and persons on their behalf while harvesting the crops. As such, possibility of threat to the life of D.H. and his family members at the hands of J.Ds. cannot be ruled out. This court has issued arrest warrant against J.D.No.1(2) and J.D.No.2 as they failed to obey the decree passed against them. However, still execution of arrest warrant is pending because J.Ds are avoided to get execute the arrest warrant issued against them. The J.Ds are ruffians. Therefore, they are obstructing possession of D.H. One Criminal Case No. 40/2018 is also pending against J.D.No.2. The J.Ds are threatening the D.H. on the cause of harvesting the crops. Therefore, to maintain law and order at the time of harvesting the crops, police aid is necessary. Ultimately, the D.H. prayed that police aid of one Head constable, one lady police constable and one police constable may be provided. The D.H.is ready to bear

expenses of police aid.

**02.** All J.Ds have failed to file their say on present application. Therefore, application is proceeded without say of all J.Ds. Even, sufficient opportunity is given to J.D.No.2 for filing his say. However, he has not filed his say till today.

**03.** Heard the learned advocate for the D.H. The learned advocate for J.D.No.2 submitted on the point of law that police aid cannot be given in execution proceeding. On this point the learned advocate for D.H. placed his reliance on ratio laid down in the judgment of **A. Diravidamani Vs. Chitradevi and Others dated 30-09-2008.**

**04.** Considering submissions of both sides and ratio in aforesaid judgment, I have gone through record of the proceeding. It appears that, a decree in R.C.S.No. 96/1985 passed against J.Ds on 21-02-2009. While deciding said suit the Court has held possession of present D.H. over block No.310 total admeasuring 3 H. 84.5 R except 3 acre and 17 gunthe situated at southern side given to defendant No.1. Thereafter, present D.H. has filed execution proceeding against J.Ds including the persons on their behalf who have disobeyed the decree. Time and again arrest warrant issued against J.D.No.1(B) and 2. As a matter of fact J.D.No.2 is arrested and sent to civil prison by passing order below Exh.99 on 04-10-2021. Today the D.H. along with Exh.113 produced copy of police complaint made by him against brothers, wife and son of J.D.No.2 and J.D.No.3 and other family members of J.Ds. The complaint is made on 17-10-2021 stating that the

aforesaid persons entered upon the land over which the D.H. has possession and caused loss by cutting the rice crop. Thus, from the said complaint prima-facie it appears that still J.Ds and their family members are causing disturbance to the possession of D.H. despite having knowledge of decree of injunction passed against them in R.C.S.No.96/1985.

**05.** In the case of A.Diravidamani (**Supra**) on which the D.H. is relied, it is held by the Hon'ble Madhurai Bench of Madras High Court that "*in the execution petition filed under Order XXI, Rule 11(2) r/w Rule 32, the decree holder is certainly entitled to seek police aid or protection, apart from or even without a prayer for detention in civil prison of the person of the judgment debtor or the attachment of his property*". Thus, as per ratio in aforesaid judgment, the D.H. in present execution petition can certainly entitled to seek police aid while harvesting crops in the land over which he has possession.

**06.** Considering dispute between the parties, it is not desirable or expected by the Court to wait until happening of any untoward event between the parties over the cause of possession and then to grant relief. Rather, the Court has to intervene at proper time and to protect an interest of the party in whose favour decree is passed. Considering all the aspects, this Court is fully convinced of the existence of a grave emergency. Therefore, ratio laid down in the Judgment of A.Diravidamani (*supra*) on which the D.H. is relied, is very well applicable to the case in hand.

**07.** As per decree passed in R.C.S.No. 96/1985, it is

incumbent on the J.Ds to obey the same which is passed against them and should not obstruct the peaceful possession of the D.H. over the suit land. However, it is established that the J.Ds and persons on their behalf are still obstructing peaceful possession of the D.H.. Hence, in order to mitigate the situation, it deems necessary to restrain the J.Ds by granting police aid in favour of the D.H. for protecting his right of enjoyment over the suit land block No. 310. Hence, following order.

**ORDER**

1. Application is allowed.
2. The Assistant Police Inspector, Kale Police Station is directed to provide police aid of one police head constable, one constable and one lady police constable to the D.H. as and when required by him while harvesting crops standing in the land block No. 310, admeasuring 3 H. 84.5 R except 3 acre 17 gunthe situated at southern side given to J.D.No.1 situated at Katebhogaon, Taluka-Panhala, District Kolhapur.
3. The D.H. to deposit necessary expenses of police aid in the concerned police station.
4. Issue letter accordingly.

Kale-Kherivade  
Date : 29/10/2021.

( V. V. Khulape )  
Civil Judge, J. Dn.,  
Kale-Kherivade.