

**ORDER BELOW EXH. 33**

This is an application filed by plaintiff under Section 151 of C.P.C. for grant of police aid to enforce the order of temporary injunction. Defendant has not filed any reply.

2. Heard learned advocate for the plaintiff. Perused record.
3. Learned advocate for plaintiff has submitted that plaintiff has filed suit for partition, separate possession of suit property. The plaintiff and defendant have equal share in this property. During the pendency of suit defendant has illegally started construction upon the suit land without any permission of concerned Department. The plaintiff has filed application for temporary injunction. It was allowed and defendant was restrained from doing any construction over CTS No. 63 till final disposal of the suit.
4. In spite of the order of court defendant has started construction over suit property and he is trying to change nature of suit property. If defendant succeed in his ill motive then the very purpose of grant of temporary injunction will frustrate. When plaintiff tried to stop him he had abuse to the plaintiff in the filthy language. He has reported the matter to the police station.
5. On application of plaintiff Gram Panchyat Nagardhan issued notice to the defendant to stop the construction but defendant has not stop. To protect the interest of plaintiff and to enforce order of this court it is necessary to grant police aid to the plaintiff to stop the construction of the defendant and constrained him to obey the order of this court. It is

necessary to send defendant in Civil prison for breach of injunction order passed on 05-10-2021 so that he could not make any construction. If police aid is not granted plaintiff will suffer grave hardship, injustice and irreparable loss which can not be compensated in terms of money. Hence, this application be allowed. He has filed on record copy of letter of Gram Panchayat Nagardhan, N.C. report, Photograph.

6. He has place his reliance on *Ramesh Yashwant Khedkar and others Vs. Anil Sitaram Khedkar of Hon'ble Bombay High Court* in this case plaintiff has filed application under Section 151 of C.P.C. for seeking police aid to enable him to enforce the order of temporary injunction. It was allowed. In this case the order passed on temporary injunction was also challenge. Therefore defendant had challenged order passed on application for police aid. Hon'ble High Court has not intervene in order of Civil Judge as it was passed after considering rule laid down in the case of Nirabai J. Patil and Ratnabai Narayanrao Naik and the powers under Section 151 of C.P.C.

7. *Smt. Nirabai J. Patil Vs. Narayan D. Patil AIR 2004 Bom 225 of Hon'ble Bombay High Court* in this case it was discussed that the police help is to be regarded as an extreme step as such it should not be recommended unless the court is fully convinced of the existence of grave emergency. The decree holder praying for police help has to state it is required, because of apprehension of violence or obstruction of judgment debtor himself or at his instance by other, or because of condition general character such as the locality where execution will have to be effected being in a disturbed state or a class of people.

8. The special procedure for police help would not be allowed unless there are reasonable ground to suppose that the execution will not be effected without serious danger to public peace. The court must be fully convinced of existence of grave emergency and to prevent commission of cognizable offence.

9. After considering submission of the plaintiff and on perusal of record and authorities filed by the party it appears that in present suit order below Exh. 22 for temporary injunction was passed on 05-10-2021. as per contention of plaintiff defendant has against started construction on suit land inspite of existence of this order. Therefore, plaintiff has filed present application. As per rule laid down in Nirabai Patil Vs. Narayanrao Patil police help can be granted only in case of grave emergency and to prevent cognizable offence while execution of the order. But in present case no material brought on record to show existence of grave emergency. Hence, this Court is not convince that it is a fit case to grant police aid. The plaintiff has not exhausted other sources to avail relief granted by order of this Court. Therefore, at this stage this application appears premature. Hence, in the interest of justice I proceed to pass following order :

**ORDER**

The application is hereby rejected.

Dated 17/02/2022

**(Smt. V. P. Dhurve)**  
Civil Judge, Jr. Dn. Ramtek.