

Order below Exhibit 29 in Reg. Civil Appeal No. 63/2017

(Rajakka Gavade & others Vs. Shivaji Gavade)

1. The appellants have filed this application for giving police aid for sending the sugar cane standing in land Gat No.2010 to Vishwasrao Naik Sahakari Sakhar Kharkhana Ltd., Yashwantnagar, Chikhali, on the ground that the sugar cane crop is ready for sending to sugar factory. However, on 19/02/2018, the respondent's power of attorney Dhanaji Gavade threatened the labours and disobeyed the order below Exhibit 19. Therefore, the complaint has been lodged on 19/02/2018.

2. The respondent resisted the application by filing reply at Exhibit 33 on the ground that it has been held that the respondent has 1/3rd share in the suit property. The appellants are not in exclusive possession of the suit land, therefore they have no right to take entire sugarcane crop. The respondent has not caused obstruction for sending sugar cane. It is submitted that in view of the dispute, it is necessary to send sugar cane standing in Gat No.2010 by appointing court commissioner and the bill is to be deposited in the Court.

3. Heard learned counsels for the appellants and the respondent.

4. As per order passed below Exhibit 19, the appellants were permitted to send the sugar cane in Gat No.2010 to sugar factory and to produce the sugar cane receipts in the Court and they were directed not to withdraw 1/3rd amount of sugar cane bill in Gat No.2010.

5. In the course of arguments, both the counsels agreed for appointment of court commissioner for sending the sugar cane

standing in Gat No.2010 in the name of the court commissioner and depositing the amount of sugar cane bill in Court.

6. Considering the dispute and in order to avoid the damage to the sugar cane crop, it is just and proper to appoint court commissioner for sending the sugar cane in Gat No.2010 to Vishwasrao Naik Sahakari Sakhar Karkhana Ltd., Yashwantnagar, Chikhali and directing him to deposit the sugar cane bill in the Court. Hence, I pass the following order.

ORDER

(1) The application is allowed.

(2) **Shri. D.H.Jagtap, Advocate** is hereby appointed as Court commissioner.

(3) The court commissioner shall send the sugarcane situated in suit land Gat No.2010 to Vishwasrao Naik Sahakari Sakhar Karkhana Ltd., Yashwantnagar, Chikhali in his name and shall deposit the sugarcane bill in the court along with his report.

(4) The parties shall deposit commission fee of **Rs.3,000/-** (Rs.Three Thousands only), out of which the appellants shall deposit 2/3rd amount and the respondent shall deposit 1/3rd amount of commision fees **within eight days**.

(5) Issue commission letter accordingly.

ISLAMPUR.

Sd/-xxx

(R.B.Rote)

28th February, 2018

District Judge-2, Islampur.