

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CIVIL APPLICATION NO.13607/2015

IN

WRIT PETITION NO.4797/2004

Chunnekhan Rajekhan Pathan.

...Applicant..

Versus

Rayaji Natha Autade & others.

...Respondents...

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Shri P.S. Dighe, Advocate for applicant.

Shri V.D. Salunke, Advocate for respondent nos.1 & 2.

Shri A.P. Basarkar, AGP for respondent nos.3 to 8 and 10.

Shri V.R. Dhorde, Advocate for respondent no.9.

Shri A.R. Joshi, Advocate h/f Shri R.S. Deshmukh,
Advocate for respondent no.10 in WP.

Shri V.D. Sapkal, Advocate for respondent nos.9 and 11 in
WP.

Shri R.R. Sancheti, Advocate h/f Shri R.R. Mantri,
Advocate for respondent no.12 in WP.

Smt.A.S. Rasal, Advocate for respondent no.13 in WP.

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CORAM: RAVINDRA V. GHUGE, J.

DATE: 18.03.2016

ORDER :

1] While issuing notices to the non-applicants in this application, this Court had recorded the submissions of the applicant in paragraph no.1 as under:-

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"The applicant contends that he was appointed as a Watchman on Respondent NO.9/Ginning Pressing Society from January, 2000 and he is in employment even today. Initially, his monthly wages were fixed at Rs.5000/- till 2011. From 2012 onwards, his monthly wages were at the rate of Rs.6000/-. He, therefore, claims recovery of salary to the tune of Rs.9,56,065/- as on 31.03.2015 and seeks directions to the Respondents to release the said amount of wages."

2] All the non-applicants appeared in this application and sought time on 15.1.2016. On 11.3.2016, the learned AGP sought time to make a statement on behalf of non-applicant no.9 with regard to the payment of monthly wages to the applicant.

3] Shri Dhorde, learned Advocate appears on behalf of respondent no.9 and submits that he is the Liquidator on the concerned Ginning Factory. There are no funds available with it. He, however, submits that one Acre of the land at issue was acquired by the acquiring body and the same was sold. The compensation amount after acquisition of Rs.3638141/- has been deposited with the learned Civil Judge, Senior Division, Aurangabad, on 29.12.2011.

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4] The issue raised in this application is that the applicant, who has been single handedly guarding the property at issue has not been paid his monthly wages. Shri Dighe submits that it is a matter of his survival. The outstanding wages as on 31.3.2015 were Rs.9,56,000/- approximately. It is virtually a year thereafter and the amount has grown. If the non-applicants do not oppose, the request of the applicant that an amount of Rs.2,50,000/- may be paid to him by withdrawing the said amount lying with the learned Civil Judge, Senior Division, Aurangabad.

5] Learned Advocates for the non-applicants submit that some of the non-applicants have interest in the property. There are other civil applications pending before this Court filed by such applicants, who also claim to have some interest in the property. It is, however, submitted by the learned Advocates for the non-applicants that they have no objection if the amount of Rs.2,50,000/- is paid to the applicant who has been guarding the said property and the said amount can be apportioned towards his wages by keeping this civil application pending, in case there are no legal

impediments.

6] Shri Sapkal, learned Advocate appearing on behalf of the petitioner Keshav Bhaurao Teli (deceased) through his L.Rs. Gulab Keshav Teli in Writ Petition No.4381/2002, submits that the said petitioner claims to be a tenant. Information of the said petitioner is that this applicant - Watchman has allowed encroachment to some extent and is collecting rent from persons who are permitted by him to occupy portions of the property unauthorizedly. Unless the encroachment created by him is not removed either by him or by the State authorities, no amount towards wages be disbursed to the applicant.

7] In the light of the above, the learned AGP shall convey to respondent no.10 - the Divisional Commissioner, Aurangabad, to carry out an inspection of the said property through the committee constituted by this Court vide order dated 5.8.2004 in Writ Petition No.4797/2004 with regard to the sale of land of Aurangabad Taluka Cooperative Cotton Ginning and Pressing Society Limited so as to verify whether there are any encroachments and whether the applicant herein namely Shri Chunnekhan Rajekhan Pathan is responsible for creating such

encroachments.

8] Respondent no.10 shall file an affidavit after conducting a proper inspection as directed above on or before 4.4.2016.

9] S.O. to 11.4.2016 for further consideration.

10] In the meanwhile, in the event the amount of Rs.3638141/- deposited with the learned Civil Judge, Senior Division, Aurangabad, on 29.12.2011 has not been invested in a fixed deposit receipt with any Nationalized Bank, the same be done as expeditiously as possible and the said amount be invested in FDR with any Nationalized bank in Aurangabad city for an initial period of six months and to be renewed for the same period from time to time thereafter as and when required.

11] Learned Registrar (Judicial) of this Court shall communicate this order to the concerned learned Civil Judge, Senior Division, Aurangabad, urgently.

(RAVINDRA V. GHUGE, J.)