

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 386 OF 2019

ALONGWITH

CIVIL APPLICATION NO. 1352 OF 2018

Shri. Swami Samarth Ganesh
Sevabhavi Sanstha, Through
its President, Shri. Mahesh
Annaso Chigare

.....Appellant

V/s.

Shri. Sambhaji Appaso Kadam
and Ors.

....Respondents

* * * * *

Mr. Manoj Patil, Advocate for the appellant.

Mr. Nagesh Y. Chavan, Advocate for respondent no.1.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 25th March, 2021.

P.C. :

1. Heard learned Counsel for the parties.
2. Prima-facie, the dispute relates to land admeasruing 300 sq.ft. The original plaintiff and the

defendant no.3 (appellant) are/were claiming possession over the disputed land. Admittedly, it was State's land. Prima-facie, I am of the view that, neither respondents no.2 and 3 nor respondent no.4 had any authority to transfer and/or create right in the disputed land either in favour of the appellant or respondent no.1.

3. In the circumstances, let the Collector, Kolhapur be impleaded as a party respondent. He shall place on record, the character of the land and particulars of its title. Consequential amendments be carried out within a week from today, whereafter the appellant shall serve the proceedings on the Collector, Kolhapur.

4. The appellant is a religious trust and has constructed a temporary stage/platform on the disputed land which is being used by the devotees of Swami Samartha. In consideration of this fact, the respondents shall not demolish the stage constructed by the appellant

till the next date nor shall prevent the devotees from using it till the next date.

5. It is made clear that, it is purely a temporary arrangement to avoid further litigation between the parties; however the appellant shall not claim equity. It is further made clear, that the appellant shall not make any construction and/or alteration or change the user of the disputed land.

6. List the Appeal for admission on 4th May, 2021 for further consideration.

7. Mr. Patil, learned Counsel for the appellant submits that, Gram Panchayat (respondent no.3) is ceased to exist on Hupari Municipal Council came into being. If that is so, let the appellant amend the cause-title, whereafter he shall serve the Municipal Council with the proceedings.

(Sandeep K. Shinde, J.)