

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.6902 OF 2013

Santosh Uttamrao Mahure

-VS-

Gopichand Shivilal Pawar and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Anand Deshpande, counsel for the petitioner.

CORAM : SMT. VASANTI A. NAIK, J.

DATE : 24.12.2013.

By this petition, the petitioner challenges the two concurrent orders of the trial and the first appellate Court holding that the petitioner was not entitled to grant of temporary injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure.

On hearing the learned counsel for the petitioner and on a perusal of the impugned orders, it appears that the Courts were justified in holding that the petitioner was not entitled for grant of temporary injunction as the petitioner did not have a *prima facie* case and the balance of convenience was also not in favour of the petitioner. Both the Courts found on a proper appreciation of the material on record that the petitioner-plaintiff was not in possession of the mutton shop and the original defendant Nos.4 and 5 had proved their possession over the same. The findings of facts recorded by both the Courts cannot be lightly interfered with, in exercise of the writ jurisdiction.

Since there is no merit in the writ petition, the same is dismissed with no order as to costs.

JUDGE