

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

WRIT PETITION NO. 9916 OF 2016

Shri Nitin shreerang Sanadi,
R/o Ambedkar Nagar, Jath,
Tal. Jath, Dist. Sangli.

... Petitioner

v/s

The State of Maharashtra & ors.

... Respondents

Mr.Akshay Kulkarni for the petitioner.

Mr.Sachin Kankal, A.G.P. for Resp. Nos.1 and 2.

Coram: N.M. Jamdar, J.

Dated: 29 August 2016

ORAL ORDER:

The Petitioner challenges the concurrent orders passed by the learned Civil Judge, Junior Division and the District Judge, Sangli, rejecting the application filed by the Petitioner for temporary injunction. The Petitioner has set up a stall for photocopying business in the compound of Tahsildar office of Taluka Jath, Dist. Sangli. He filed a suit when he was called upon to vacate the said stall. According to the Respondents, the Petitioner has encroached on the government property. Both the Courts rejected the contention of the Petitioner for grant of any stay on the ground, firstly, that he in arrears of amount of Rs.2,52,000/- of rent of Rs.3,000/- per month has not paid single pai to the Government. Also that the stall has already been removed.

2 Learned counsel for the Petitioner submitted that the Petitioner is handicapped and, therefore, he should be given benefit of Government policy as well as lenient view be taken.

3 It is not possible to do so. Even if there is a Government policy, there is nothing on record to show that while implementing such a policy, a procedure for public participation was adopted. The Petitioner is not the only needy person. If the process would have been followed, there would have various such applicants suffering from disability willing to take such running of a stall for the handicapped. The indulgence cannot be shown to the Petitioner merely because he has invoked process of Court. He has carried on business without paying any amount to the government. He had also committed encroachment. Therefore, the discretion used by both the Courts not to grant any interim relief cannot be stated as perverse. In case the Respondents decide to allot a photocopying stall as per the policy, they will have to do so by following the methodology of public participation and once such methodology is adopted, it will be open to the Petitioner to apply in case he is eligible.

4 With these observations, the writ petition is rejected.

(N. M. Jamdar, J.)