

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.4/2016

Motiram Istari Sangrame

..Vs..

State of Maharashtra and others

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATE : 7.2.2017.

The petitioner / original plaintiff has challenged the judgment and order passed by the subordinate Courts concurrently rejecting his claim for temporary injunction restraining the defendants from interfering with his possession over the suit field.

The learned District Judge has summarized the conclusions in paragraph No.27 of the impugned judgment as follows:

“27. Thus considering the rulings cited above, it is clear that the illegal encroachers on public land should not be protected for their personal benefit. In this case the plaintiff is admittedly an encroacher on the public land which is allotted to the Tahsil Office for construction of its office which is for public purpose. The material on record nowhere shows continuous cultivating possession of plaintiff over the suit land. It is hard to believe (sic believe) only on the basis of khasra of five years in which plaintiff is shown as encroacher that too only for the year 1980, that he is in continuous possession of suit land without any interference from anybody and is cultivating

the same since the year 1980. Therefore, I am of the view that the plaintiff is not at all entitled for temporary injunction as prayed for in lower Court below Exh-5. The plaintiff has not made out any prima facie case and balance of convenience also does not lie in his favour. In fact the irreparable loss will be caused to the defendants and the public at large if the construction work on the suit land carried out by the defendants is stopped. Therefore comparative injury which the defendants may suffer is more than what which may be caused to the plaintiff. Hence in the above circumstances, I answer point Nos.1 to 3 in the negative.”

In the memorandum of petition the petitioner has not been able to point out that the conclusions of the subordinate Courts, specifically of the learned District Judge, suffer from any infirmity or perversity. I do not see any reason to interfere with the impugned order. The petition is dismissed. No costs.

JUDGE