

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO.9082 OF 2018  
(Mandabai w/o Prabhakar Surashe Vs. P.Y.Kolhe and others)

Mr.M.P.Kale, Advocate for the petitioner.  
Mr.N.R.Bhavar, Advocate for respondent Nos. 1 to 3.  
Mr.S.S.Wagh h/f Mr.S.T.Shelke, Advocate for respondent No.4.

( CORAM : Ravindra V.Ghuge, J.)

DATE : 09/04/2019

PER COURT :

1. The petitioner is aggrieved by the order dated 15/06/2018 delivered by the Trial Court refusing temporary injunction to the petitioner in RCS No.106/2018. The petitioner is also aggrieved by the judgment and order dated 11/07/2018 delivered by the Appellate Court by which his Misc.Civil Appeal No.17/2018 has been dismissed.

2. I have considered the submissions of the learned Advocates for the petitioner/plaintiff, respondent Nos. 1 to 3 and respondent No.4, who are the original defendants.

3. The petitioner/plaintiff has preferred the suit in 2018 seeking final relief of prohibiting the Gram Panchayat from drawing water

from a well situated in Gut No.54. By way of temporary injunction, he has prayed for the same relief.

4. This region is reeling under a severe drought. Human beings as well as live stock are finding it difficult to have drinking water, as water bodies, rivers and the wells have practically dried up. In this backdrop, the petitioner prays that the gram panchayat be prohibited from drawing water from the said well.

5. Considering the submissions of the respondents and upon perusing the record available, it emerges that the plaintiff had sought a declaration of ownership and perpetual injunction in RCS No.411/2003. The plaintiff was held to be entitled for only 1/6th share in the property out of Gut No.54. There are other share holders in the said Gut No.54.

6. The record further reveals that the well at issue was sunk by the Gram Panchayat, Bolaki, in the year 1982 at its own costs and the Gram Panchayat was supplying water from the said well to the villagers for the last about 37 years. The predecessor in title, one Changdeo Bhivsen Mahale executed a consent deed in favour of the Gram Panchayat on 18/03/2004 admitting that the well was a

creation of the Gram Panchayat.

7. The record also reveals that the petitioner/plaintiff sunk a new well in Gut No.54/1 and the revenue records confirm the same as being situated in the south-west corner of the said property. The plaintiff then sold the said property alongwith the new well to Fakira Suryawanshi and others.

8. Considering the above findings of the Trial Court, while passing the interim order, I do not find that the Appellate Court has committed any error in appreciating the said factors. The order of the Trial Court refusing temporary injunction and the judgment of the Appellate court dismissing the appeal, do not call for any interference.

9. This petition, being devoid of merit, is therefore dismissed.

( Ravindra V.Ghuge, J.)