

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

WRIT PETITION NO. 644/2019

Smt. Suman Natthuji Pardhe & ors.

..VS..

The Municipal Corporation, Chandrapur

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

Court's or Judge's orders

Shri N.R. Bhishikar, Advocate for the petitioner(s)

CORAM : Z.A.HAQ, J.
DATED : 07/02/2019

Heard.

The original plaintiffs have challenged the orders passed by the subordinate Courts concurrently rejecting the claim of the plaintiffs for temporary injunction praying for restraining the defendant from obstructing possession over the suit land/property. The subordinate Courts have recorded that the suit land belongs to the defendant – Municipal Corporation and the plaintiffs have encroached over that land. The plaintiffs claim that they have been in permissive/lawful possession of the suit land since last 35 years. However, the plaintiffs have not produced any documents on record to substantiate this contention. The learned advocate for the plaintiffs has pointed out para no. 25 of the order passed by the District Court in which reference of some electricity bill and tax receipts is found. In spite of the fact that the learned District Judge has recorded that the plaintiffs have not been able to show that they had been in possession of the suit land since last 35 years, the alleged

electricity bill/bills or the tax receipts are not placed on record. There is no explanation for keeping back the documents.

The subordinate Courts have recorded that the encroachment is being removed to undertake an activity for public purpose.

In the above facts, I find that the subordinate Court have examined the matter in the right perspective and after being satisfied that the plaintiffs have not been able to establish prima – facie case to show that balance of convenience lies in their favour and they will be put to irreparable loss or injury, the subordinate Courts have rightly refused to grant temporary injunction. There is neither any illegality or error of jurisdiction which necessitates interference by this Court in the extra-ordinary jurisdiction.

The writ petition is **dismissed**. No costs.

JUDGE

Ansari