

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 WRIT PETITION NO.10997 OF 2021

**GANESH GOPINATH SABALE AND ANOTHER
VERSUS
THE COMMISSIONER MUNICIPAL CORPORATION AURANGABAD**

...

Advocate for Petitioners : Mr. Kawade Arvind R.

CORAM : MANGESH S. PATIL, J.

DATE : 17.11.2021.

PER COURT :

Heard learned advocate for the petitioner.

2. The petitioners are the original plaintiffs who have filed a suit for perpetual injunction restraining the respondent- Municipal Corporation from causing obstruction to their possession over the suit property which has been described as a piece of land admeasuring 5-Are out of land Gat No. 5 of village Naregaon Tq. & Dist. Aurangabad. They have also sought declaration that a notice issued by the respondent under Section 260 of the Maharashtra Municipal Corporation Act dated 25.09.2020 is null and void. By this notice the petitioners have been called upon to remove tin shed erected on the suit property. By submitting an application for temporary injunction (Exh. 5) they prayed to restrain the respondent from obstructing their possession over the suit property. The application (Exh. 5) has been rejected by the Trial Court and the appeal preferred by them under Section 104 of the Code of Civil Procedure has also been dismissed by the judgment and order which is under challenge.

3. During the course of the argument the learned advocate for the petitioners submits that in the meanwhile, the tin shed that was standing on the suit property has already been removed by the petitioners.

4. If such is the state of affairs, when the threat that was being perceived by the petitioners on the basis of the notice of the respondent under Section 260 of the Maharashtra Municipal Corporation Act no longer survives in view of such supervening event, irrespective of the legality or otherwise of the consisting findings of the two Courts below, nothing survives so that the petitioners can be said to be entitled to or in need of any protection.

5. If at all, according to the submissions of the learned advocate, the petitioners are also apprehending that they would be dispossessed from the suit property, it would certainly be open for them to seek appropriate remedy independent of the present request for temporary injunction.

6. In view of such state of affairs, I do not consider it appropriate to cause interference in the consisting findings of the two Courts below while exercising writ jurisdiction.

7. The Writ Petition is dismissed in limine.

(MANGESH S. PATIL, J.)

mkd/-