

drp

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

**WRIT PETITION NO.949 OF 2019**

Manish Sopanrao Gunjal and Another

PETITIONERS

VERSUS

Ghulewadi Gram Panchayat and Others

RESPONDENTS

.....

Mr. Satyajeet S. Dixit, Advocate for the petitioners

Mr. N. B. Khandare, Advocate for respondents No. 1 and 2

Mr. Y. S. Choudhari, Advocate for respondent No.4

.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 20<sup>th</sup> JULY, 2022**

**ORDER :**

1. Challenge in this petition is to the order passed by the learned District Judge-1, Sangamner in Miscellaneous Civil Appeal No. 30 of 2018, thereby setting aside the order passed by the Trial Court below Exhibit-5 in Regular Civil Suit No. 976 of 2018.

2. By filing Regular Civil Suit No. 976 of 2018, the petitioners have prayed that the gift deed executed by them in favour of the Gram Panchayat, thereby gifting 2 Are land to the Gram Panchayat, be declared illegal as it is obtained by deceiving them. Along with the suit, application Exhibit-5 was

filed seeking injunction that the Gram Panchayat has dug a well in the suit land and has installed an electric motor on the same for water supply, the same be stopped.

3. The Trial Court allowed the application and granted injunction that the well in the suit property and the motor installed on the same should not be used.

4. Being aggrieved by the said order, the Gram Panchayat preferred Miscellaneous Civil Appeal No. 30 of 2018, which is allowed by the Appellate Court and the order of injunction passed by the Trial Court is set aside. Hence, the present petition.

5. Heard learned advocate for the petitioners and learned advocates for the respondents.

6. Learned advocate for the petitioners assailed the impugned order contending that the gift deed is obtained by the Gram Panchayat, by deceiving the petitioners and though it was assured that alternate land would be given to them, same is not given. Therefore, the petitioners were constrained to file the suit and seek injunction. He submits that no compensation is paid to the petitioners and, therefore, the Trial Court was justified in passing the order below Exhibit-5. According to the learned

advocate, the Appellate Court has erred in reversing the order passed by the Trial Court.

7. Learned advocates for the respondents, on the other hand, supported the impugned order.

8. The record reveals that the petitioners have executed gift deed in favour of the Village Panchayat in the year 2014 thereby gifting the suit land to the Village Panchayat. The Village Panchayat has dug a well in the suit land in the year 2016 and has installed a water pump on the same and by implementing water supply scheme, more than 65000 residents of village Ghulewadi are supplied water from the said well. Though these facts were brought to the notice of the Trial Court, the Trial Court has erroneously proceeded to grant interim injunction in favour of the petitioners. The Trial Court has erroneously exercised its jurisdiction in granting interim injunction. Merely because there is *prima facie* case in favour of the petitioners that by itself does not entitle them for the relief of interim injunction. This provision of law is ignored by the Trial Court so also the principles laid down in "***Shiv Kumar Chadha Vs. Municipal Corporation of Delhi***" (1993) 3 SCC 161.

9. The Appellate Court has rightly vacated the interim

injunction clamped by the Trial Court, by a well reasoned order and by relying on "*Shiv Kumar Chadha*" (*supra*). In the peculiar facts and circumstances of the case, this Court is of the considered view that the Appellate Court is justified in setting the erroneous order passed by the Trial Court. There is no illegality or perversity in the order impugned in the present petition. Writ petition, being devoid of substance is dismissed. No costs.

[NITIN B. SURYAWANSHI]  
JUDGE