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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3908 OF 2022

Maka Vividh Karyakari Society Ltd.,	PETITIONER
VERSUS	
The Village Panchayat Maka and Others	RESPONDENTS

.....
Mr. Rajendra Sudam Kasar, Advocate for the petitioners
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[CORAM : NITIN B. SURYAWANSHI, J.]
DATE : 31st MARCH, 2022

ORDER :

1. This petition challenges order passed by the learned Civil Judge, Junior Division, Nevasa below Exhibit-14 in Regular Civil Suit No. 230 of 2022 whereby, the application filed by the petitioner – plaintiff seeking stay to the construction being carried out by the respondent – defendant, till the temporary injunction application (Exhibit-5) is decided, is rejected.
2. The petitioner has contended that the defendant village panchayat is illegally carrying out construction on the land belonging to the petitioner and the suit is, therefore, filed for injunction against the village panchayat and if the construction is allowed to be carried out, then the application Exhibit-5 would be rendered infructuous and hence construction may be stayed.
3. The application is resisted by the village panchayat by

stating that, earlier, the petitioner had filed Regular Civil Suit No. 176 of 2022, in which similar application was filed and the said application was rejected by the trial court. The said suit was thereafter withdrawn and the present suit is filed by the petitioner for the same relief.

4. The trial court has observed in the impugned order that no *prima facie* evidence is produced by the plaintiff that construction is being carried out on the property of the plaintiff and the plaintiff is in possession of that portion of the land on which construction is going on. In that view of the matter, the trial court rejected the prayer of the petitioner-plaintiff.

5. It appears from the record that the petitioner has not placed on record any evidence that construction is being carried out on the plaintiff's property. Boundaries of the suit property are not fixed as yet and, therefore, the trial court was justified in rejecting the said application. There is no illegality or perversity in the order impugned in the present writ petition. No case is made out for exercising extraordinary writ jurisdiction. Writ petition is, therefore, dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE