

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

WRIT PETITION NO.11610 OF 2022

**SAHIKH JAIBUNNISSA SHAIKH LAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH COLLECTOR
AND OTHERS**

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Mr. S. A. P. Quadri, Advocate for the Petitioners.

Mrs. G. L. Deshpande, AGP for Respondents-State.

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**CORAM : SANDEEP V. MARNE, J.
DATED : 23rd NOVEMBER, 2022.**

PER COURT:-

1. By this petition petitioners challenge the judgment and order dated 10.08.2021 passed by the District Judge-2, Ambajogai dismissing Miscellaneous Civil Appeal No.11/2020 and confirming the order dated 27.01.2020 passed by the Joint Civil Judge, Senior Division, Ambajogai rejecting plaintiffs' application for temporary injunction at Exhibit-5. There are numerous reasons why this writ petition should be dismissed. Firstly, the order dated 10.08.2021 passed by the District Judge-2 is challenged by filing the present Writ Petition on 17.10.2022 i.e. after delay of more than one year and two months. Secondly, the Trial Court has recorded a specific findings that plaintiffs had filed Regular Civil Suit No.492/2017, which was suppressed in the plaint. Copy of the plaint was produced before the Trial Court by defendants.

2. The learned counsel for petitioners submits that Regular Civil Suit No.492/2017 was filed seeking injunction

simplicitor against Municipal Council and the same was subsequently withdrawn. Thus, it prima facie appears that, the Regular Civil Suit No.1134/2019 is filed for the same cause of action and seeking same reliefs against same defendants for which Regular Civil Suit No.492/2017 was filed. The learned counsel for petitioners submits that parties in both the suits are different. This is something which is to be decided by the Trial Court while deciding the suit and no opinion is expressed in that regard in the present order.

3. Be that as it may. Such conduct of suppression of vital facts on the part of petitioners would dis-entitle them from seeking equitable relief of temporary injunction. The Trial Court has rightly rejected plaintiffs' application and his appeal has rightly been dismissed by the District Court.

4. The petition is devoid of any merits and the same is disposed of without orders as to cost.

(SANDEEP V. MARNE)
JUDGE