

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 778 of 2022

[Ravindra s/o Dnyandeo Shekokar and ors. ..vs.. The Secretary, Gram Panchayat Umari, Mamadabad,
Tq. Daryapur, Dist. Amravati and anr.]

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

Court's or Judge's orders

Ms. Sonali Khobragade, Advocate h/f Mr. M. V. Rai, Advocate for the
petitioners

CORAM : ROHIT B. DEO, J.

DATED : 16-2-2022

The petitioners are the original plaintiffs who have instituted Regular Civil Suit 58/2019 seeking decree of permanent injunction restraining the defendants from demolishing the residential structure allegedly in possession of the plaintiffs.

2. Perusal of the suit plaint reveals that in essence what is challenged is an action initiated by Gram Panchayat, Umari. Surprisingly, the Gram Panchayat is not a party to the suit and the defendants, who are impleaded, are the Gram Sevak or Secretary and the Sarpanch.

3. Be that as it may, the plaintiffs preferred an application under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure seeking temporary injunction, which the learned trial Judge rejected vide order dated

12-7-2019. Several damaging observations are made by the learned trial Judge, *inter alia* that the plaintiffs have suppressed relevant material and have not proved their possession.

4. The plaintiffs preferred Miscellaneous Civil Appeal 28/2019 which is dismissed by learned District Judge-1, Achalpur by judgment dated 3-1-2022. The learned appellate Judge noted that irrefutably, the plaintiffs are not the owners of the suit property nor have they paid the taxes to the Gram Panchayat. It is further noted that the property is F-Class land and is owned by the Government as is discernible from the 7/12 extract. The learned appellate Judge noted that even according to the plaintiffs, they are encroachers.

5. I entirely agree with the reasons recorded by the Courts below while rejecting injunctive relief. I may supplement the reasons recorded by the Courts below by noting that the suit itself does not appear to be maintainable in as much as the Gram Panchayat is not impleaded as party defendant. It is the Sarpanch and the Gram Sevak or Secretary, who are the only defendants and the suit which assails an action initiated by the Gram

Panchayat under the provisions of the Maharashtra Village Panchayats Act, is clearly incompetent in law.

6. The petition is sans merit and is dismissed with costs of Rs. 5,000/- (Rupees Five Thousand), payable to Gram Panchayat, Umari within two months.

JUDGE

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