

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

Writ Petition No. 979 of 2022

[Siddharth Samaj Kalyan Mandal, Umri, Akola, represented by Sanchalit Government Siddharth
Vidyalaya, Umri, Akola through its President Namdeo Miraji Shirsat ..vs.. The Commissioner, Akola,
Municipal Corporation, Akola and anr.]

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

Court's or Judge's orders

Mr. S. T. Harkare, Advocate for the petitioner

CORAM : ROHIT B. DEO, J.
DATED : 28-2-2022

The petitioner is the original plaintiff in Regular Civil Suit 126/2021 which is instituted seeking injunctive decree against the Commissioner and the Area Zone Officer of the Akola Municipal Corporation.

2. Akola Municipal Corporation is not a party to the suit.

3. The plaintiff sought temporary injunction which the learned trial Judge rejected vide order dated 14-9-2021 and Miscellaneous Civil Appeal 51/2021 is dismissed by the learned District Judge-4, Akola who agreed with the findings recorded by the learned trial Judge.

4. Undeterred, by the concurrent findings, the petitioner is invoking writ and supervisory jurisdiction.

5. One of the findings recorded is that the plaintiff did not approach the Court with clean hands. The learned trial Judge has observed that the plaintiff suppressed material facts, particularly the fact that some important issues between the parties stand concluded by the decision of the District Court, which attained finality. The appellate Judge has concurred.

6. According to the plaintiff, it was Gram Panchayat, Umri which allotted open space from the Agrawal Lay Out vide resolution 14 dated 18-11-1981 to the plaintiff. The plaintiff then claims that on 11-12-2006, Akola Municipal Corporation resolved to allot the suit site to Siddharth Vidyalaya. The plaintiff further contends that the defendants who are developing the remaining open space in the lay out have removed the signboard of Siddharth Vidyalaya. The plaintiff again installed the board and the response of the authorities was to direct the plaintiff to remove the reinstalled board.

7. The courts below have noted that the plot owners of the lay out approached the civil court against the plaintiff in which the purported resolution of the Gram Panchayat, whereby the disputed land was allotted to the

plaintiff, is held illegal. It is irrefutable that the land which the plaintiff claims is a part of the open space in the lay out which is reserved for recreational purpose. The Courts below have held that since in the suit which was decreed on 27-1-1993, a finding is recorded that the plaintiff is not entitled to the disputed land, and the judgment of the civil court is confirmed in appeal, the plaintiff has no *prima facie* case. Moreover, the plaintiff ought to have disclosed every material fact and the suppression *ipso facto* disentitled the plaintiff to relief in equity.

8. I am in complete agreement with the reasons recorded concurrently. It is crystal clear that the plaintiff suppressed the factum of earlier litigation and approached the Court with tainted hands. Such a person is not entitled to relief in equity. Even on merits, there is absolutely no case made out for seeking injunctive relief. The very maintainability of the suit is in serious doubt and the right claimed appears to be non-existent.

9. The petition is dismissed with costs.