

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

Writ Petition No. 1051 of 2022

[Ravi s/o Wamanrao Lonkar ..vs.. Municipal Corporation of City of Chandrapur, through its
Commissioner and ors.]

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

Court's or Judge's orders

Mr. R. S. Kurekar, Advocate for the petitioner

CORAM : ROHIT B. DEO, J.

DATED : 22-4-2022

The petitioner is the plaintiff in Regular Civil Suit 192/2018 which is brought against the Municipal Corporation, Chandrapur and 39 others for declaration and permanent injunction.

2. The injunction prayed is that the Corporation be restrained from continuing with the construction on any portion of Survey 81/12 and 81/2 of Village Wadgaon and the declaration claimed is to the effect that the private defendants have no right or interest in any portion of said land and that the sale deeds do not bind the plaintiff.

3. The plaintiff sought temporary injunction seeking to restraint the Corporation and others from continuing with construction, which the trial Court rejected vide order dated 16-8-2021. The plaintiff preferred Miscellaneous Civil Appeal 28/2021 which is rejected by judgment dated 29-12-2021.

4. The sale deed on the basis of which the plaintiff is asserting ownership and possession is sale deed dated 25-1-2016. The appellate court noted that the said land

was owned by four persons who sold portions thereof to several persons and the plaintiff was the last purchaser.

5. Both the courts below have found that there is no *prima facie* case in favour of the plaintiff. The trial Court has *prima facie* found that the area claimed by the plaintiff is non existent on the spot and that the lay out map does indicate the existence of the road in the proposed lay out. The relevance of these finding is that the construction to which the plaintiff is objecting is as a fact the construction of lay out road which is also apparent from the three photographs which learned counsel, Mr. Kurekar has made available for my perusal. Considering the reasons recorded and the concurrent findings reached, I see no reason to interfere in writ jurisdiction.

6. The petition is dismissed.

JUDGE

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