

SA Pathan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.11027 OF 2023**

Matoshri Shevantabai Chougule

Sarvajanik Vachanalaya

Through Secretary

... Petitioner

**V/s.**

Solapur Municipal Corporation & Ors.

... Respondents

SHABNOOR  
AYUB  
PATHAN

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Mr. Prasad P Kulkarni, for the Petitioner.

**CORAM : AMIT BORKAR, J.**

**DATED : SEPTEMBER 5, 2023**

**P.C.:**

1. Challenge in this petition is to the order passed by Courts below, rejecting temporary relief application of the petitioner restraining the Municipal Corporation from alienating suit property (municipal property) by way of auction published in the local Newspaper.

2. According to plaintiff, standing committee of Municipal Corporation on 29 June 2013 passed a Resolution to grant lease of suit property in favor of the plaintiff for period of 29 years, 11 months. However, the process of execution of lease deed was not completed.

3. In the meantime, the Municipal Corporation started a process of lease of such property in favor of their property, which

prompted the petitioner to file a suit restraining Municipal Corporation from creating lease of suit property.

4. The petitioner in the said suit filed application restraining Municipal Corporation from leasing out property. Courts below relying on Section 79 of the Maharashtra Municipal Corporation Act, 1965 held that the power to grant lease of municipal property lies exclusively with the Commissioner of Municipal Corporation with the sanction of standing committee. In the absence of such permission by Commissioner of Municipal Corporation, no enforceable right is created in favor of the plaintiff.

5. In the absence of such enforceable right, the petitioner has failed to prove prima facie case, therefore, Courts below are justified in rejecting the application for temporary injunction.

6. The writ petition is, therefore, dismissed. No costs.

**(AMIT BORKAR, J.)**