

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

**WRIT PETITION NO.5214 OF 2023**

(Vishal s/o Raosaheb Pathare Vs. The Municipal Council, Murtizapur, Dist. Akola thr.  
its Chief Officer and another)

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

*Court's or Judge's orders.*

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Mr. S. M. Vaishnav, Advocate for Petitioner.

**CORAM: ANIL S KILOR, J.**

**DATE: 23<sup>rd</sup> AUGUST, 2023.**

The present petition arises out of rejection of application for temporary injunction filed by the petitioner, by both the courts below. The petitioner is running a business of wheel balancing and alignment. On receipt of notice for removal of illegal construction issued by Murtizapur Municipal Council, he filed the suit along with the application for temporary injunction. However, it was rejected on the ground that the notice was issued in the name of Shivaji Pathare and not in the name of the petitioner, Vishal Pathare. Moreover, as the license was not filed on record, the Court has observed that there appears to be no license issued in favour of the petitioner.

2. However, in the meantime, the Municipal Council has issued another notice addressing to the petitioner, Vishal Raosaheb Pathare for removal of illegal construction.

3. In that view of the matter, as it is new cause of action, the petitioner seeks permission to withdraw the present writ petition with liberty to approach to the trial court by filing an application for temporary injunction, afresh.

4. In the light of the request made by the petitioner, the present writ petition is permitted to withdraw with liberty to file a fresh application for grant of temporary injunction, in the light of the subsequent events. In case of filing of such application the learned trial court is directed to decide the same in accordance with law without getting influenced by the finding recorded in the earlier order.

(ANIL S. KILOR, J)