



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

Writ Petition No.6469 of 2022

Ushabai W/O Devanand Sabale

Vs

State Of Maha., Thr. Tahsildar, Nandgaon Khandeshwar, Amravati And Ors.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms S.W. Deshpande, Advocate for the Petitioner/s

Shri D.P. Thakare, Addl.G.P. for the Respondent No.1/State

Shri S.Y. Deopujari, Advocate for the respondent Nos.2 and 3

CORAM : ANIL S. KILOR, J.

DATED : 31.08.2023

1. Heard.

2. The petitioner/original plaintiff filed a suit for declaration and permanent injunction alongwith an application for temporary injunction, which came to be rejected, holding that *prima facie* the defendant Nos.2 and 3 are in possession of the suit field. The challenge to the said order rejecting the application for temporary injunction was upheld by the learned lower Appellate Court, Amravati and hence, this petition.

3. The concurrent *prima facie* findings of both the Courts below on the point of possession, are mainly based on the statements recorded by the Tahsildar during spot inspection. Whereas, the petitioner has filed affidavits of two adjoining residents and she has placed her reliance on the sale deed.

4. After going through the affidavits, *prima facie* it can be said that the affidavits have not been voluntarily given but somebody has drafted it and the deponents have signed the same. It can be said so, considering that the contents of both the affidavits which are word to word same.

5. Nothing has been pointed out to show that how *prima facie* observations made by the learned lower Appellate Court as well as the learned Civil Judge Senior Division, Amravati while rejecting the prayer of the petitioner for temporary injunction, are perverse and contrary to the record. In that view of the matter, I do not find any merits in the present matter to interfere with the impugned order.

6. The learned counsel for the petitioner points out that the order of this Court dated 17.11.2022, permitting the petitioner to produce on record the document showing the possession of the petitioner. The learned counsel for the petitioner states that certain receipts are filed on record relating to Wayada Book. However, the fact remains that these documents were not before the learned trial Court as well as the First Appellate Court, therefore, on the basis of these documents which were not before the Courts below, the order cannot be termed as illegal.

7. In the circumstances, I am of the opinion that the ends of justice would sub-serve, if the trial Court is directed to decide the suit expeditiously. Accordingly, I pass the following order:

8. The writ petition is **dismissed**.

9. The learned Civil Judge Senior Division, Amravati is directed to decide the suit expeditiously, and in any case, within nine months from today.

[ANIL S. KILOR, J.]