



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

907 WRIT PETITION NO. 2386 OF 2024

LOKMITRA RAJESH TIRPUDE

VERSUS

THE COMMISSIONER MUNICIPAL CORPORATION AND ANOTHER

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Advocate for the Petitioner : Mr. Joshi Milind Madhu

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CORAM : ARUN R. PEDNEKER, J.

Dated : March 01, 2024

PER COURT :-

1. By the present writ petition the petitioner is challenging the order dated 16/10/2023 passed by the learned Ad-hoc District Judge, Aurangabad dismissing the appeal filed by the petitioner bearing MCA No.17/2023 whereby the order dated 14/12/2022 rejecting temporary injunction application has been confirmed.

2. In a suit filed for perpetual injunction, the petitioner prayed for injunction against the municipal corporation not to interfere with the possession of suit property. In the suit the petitioner filed application for temporary injunction.

3. The learned Trial Court while deciding the application for temporary injunction observed that the petitioner failed to prove ownership and failed to file documents on record to show that the construction has been carried out after obtaining permission from the respondents, and so also the suit property is acquired for DP road and

the petitioner has no right to make construction over it.

4. The learned Appellate Court observed that the construction of the petitioner is illegal and cannot be protected. On the basis of unregistered / notarized documents, the petitioner cannot become owner of the property and title of the petitioner is defective and possession is illegal one. So also Gut No.32 has been acquired for DP Road and petitioner has separate forum to challenge acquisition.

5. It is the contention of the petitioner that the suit property is not on the DP Road but it is adjacent to the DP Road in Gut No.32/1/Part. Since prima facie, it is found that the petitioner's construction is on land acquired for DP road, and the construction of the petitioner is not by obtaining permission to construct from the appropriate authority, injunction application is rightly dismissed. The construction of the petitioner is also already demolished. The petitioner can establish his case during the course of the trial that his possession is on the land adjacent of Gut No.32/1 and seek appropriate relief. The writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.