



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

38 WRIT PETITION NO. 2106 OF 2025

Tukangiri Math Ya Kailasgiri Math Thr Its Trustee

VERSUS

Vithal @ Bhanudas S/o Shankar Wagh And Others

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Mr. Nandkumar Y. Kingaonkar, Advocate for the Petitioner.

CORAM : KISHORE C. SANT, J.

DATE : 17th MARCH 2025

PC :-

1. Heard the learned Advocate for the petitioner for some time.
2. Petitioner, original complainant, has approached this Court challenging the order passed by the learned District Judge-1, Aurangabad dated 10th December 2024 passed in Misc. Civil Appeal No. 168 of 2024. The appeal of the petitioner challenging an order below Exh.-5 in Special Civil Suit No.776 of 2022 came to be rejected by the learned 5th Joint Civil Judge, Senior Division, Aurangabad.
3. It is the case of the petitioner that it happens to be a trust having some properties mentioned in the suit. There is encroachment at the

hands of the Defendants/Respondents in the said land. It is further case that the defendants are again likely to commit encroachment over the land which is still in possession of the petitioner.

4. In the said suit, injunction was prayed by filing application below Exh.-5 seeking direction to the respondents not to make encroachment on remaining part of the property. The learned trial Court observed that no details and/or particulars of alleged encroachment are given. No date is given on which the encroachment has taken place. It is also held that the petitioner failed to prove the *prima facie* case. On considering all these facts, the trial Court has rejected the application.

5. In an appeal filed before the learned District Judge-1, the Court also considered all these aspects. The learned Advocate for the petitioner submits that both the Courts below have failed to appreciate that the petitioner is a trust having landed property. The suit was filed for obtaining permission from the Charity Commissioner. Necessary averments are already made in the plaint. Both the courts, however, failed to appreciate the said aspect.

6. Considering the submission and the observations made by the trial

Court, this Court does not find any perversity or illegality in the order passed by the Court while passing impugned judgment and order. This Court do not find any reason calling for interference at the hands of this court. Since the suit is of 2022, this court expects the learned trial Court to dispose of the same as earlier as possible within 18 months from today.

7. With this, writ petition stands disposed off.

8. No order as to costs.

[KISHORE C. SANT, J.]