



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

WRIT PETITION NO. 2532 OF 2025

Rajkumar s/o Kakasaheb Pondore
Age 25 years, Occu: Business,
R/o Takshila Nagar, Jatwada Road,
Aurangabad

... **Petitioner
Org. Plaintiff**

VERSUS

1. The Municipal Corporation, Aurangabad
(Chh. Sambhajinagar)
Through its Commissioner, R/o Town Hall,
Behind Head Post Office, Aurangabad.

2. The Regional Deputy Commissioner
Assets Administration Department,
Municipal Corporation, Aurangabad

... **Respondents
(Orig.
Defendants)**

Mr. Amar D. Soman, Advocate for the petitioner
Mr. Anand P. Bhandari, Advocate for the respondents

CORAM : Y. G. KHOBRADE, J.

DATE : 8th December, 2025

JUDGMENT:

1. Rule. Rule made returnable forthwith and with consent of the parties, the petition is heard finally at the stage of admission.

2. By the present petition, the petitioner takes exception to the judgment and order dated 12.02.2025 passed by the learned District Judge-3, Aurangabad in Misc. Civil Appeal No. 10 of 2025, whereby

affirmed the order dated 15.01.2025 passed by the learned Civil Judge, Senior Division, Aurangabad in Regular Civil Suit No. 47 of 2024 and refused to grant temporary injunction in favour of the petitioner.

3. The petitioner is original plaintiff and the respondents are original defendants in RCS No.47 of 2024. The petitioner has filed Regular Civil Suit No. 47 of 2024 seeking decree of mandatory injunction directing the defendants to re-calculate the lease premium amount for the years 2022-2023 and 2023-24 after granting set off adjustment by virtue of agreement dated 01.10.2020 for Pisciculture business in respect of Savangi-Harsul Percolation Tank, as per Government Resolution dated 09.03.2023. The petitioner further prayed for decree of mandatory injunction, directing defendants to extend the lease/contract for further period i.e. for the year 2024-25 and 2025-2026 and to award him compensation on account of loss in business due to scarcity of rainfall.

4. The petitioner filed Exh.5 an application and prayed for temporary injunction restraining the defendants from entering into new lease agreement/ reallocation of lease of Pisciculture business in respect of Savangi-Harsul Percolation Tank (Kham Lake) by way of fresh tender process during pendency of the suit. On 15.01.2025, the learned trial court passed an order below Exh.5 in RCS No.47 of 2024 and declined to grant a temporary injunction on ground that the plaintiff/petitioner failed

to make out a prima facie case and no balance of convenience lies in his favour. So also, the petitioner is not likely to suffer any irreparable loss, if the temporary injunction is not granted.

5. Being aggrieved by the said order, the petitioner/plaintiff filed Misc. Civil Appeal No. 10 of 2025 before the District Court, Aurangabad. On 12.02.2025, the learned Appellate Court passed the impugned order and dismissed appeal of the petitioner on ground that, the Government Resolution dated 09.03.2023 is not applicable to the petitioner and lease period is already over. Further, the petitioner is in huge arrears of lease amount of Rs.10,11,947 till 14.11.2024 and failed to comply with the terms and condition of lease premium, though period was extended for one year.

6. The learned counsel appearing for the petitioner canvassed that, on 01.10.2020, the agreement was executed between the petitioner and the respondents for the period of three years i.e. 01.10.2020 to 30.09.2023. The petitioner deposited premium amount of Rs.3,98,250/- for the first year and for consecutive years, premium amount was to be increased by 10%. However, the petitioner did not pay the lease premium for the year 2022-2023 because of inadequate rainfall and scarcity of water in the lake and business of the petitioner was stumbled. On 03.07.2019, the State Government issued Government Resolution and

framed policy for extension of lease period to the fishermen who face hardship and to compensate loss in the business due to scarcity of rainfall. Further, due to Covid-19 Pandemic, the petitioner could not pisciculture fish, therefore, he was facing financial crisis.

7. It is further canvassed that, on 09.03.2023, the G. R. was issued and thereby granted exemption from payment of lease premium and if the payment is already made, set off/adjustment was provided for the recurring years. Accordingly, the petitioner made correspondence dated 21.02.2024 with the respondents, however, no action was taken. Therefore, the petitioner filed the suit and prayed for mandatory injunction.

8. Learned counsel appearing for the petitioner, further canvassed that, the learned appellate court as well as the trial court committed grave error while considering that, the agreement period over on 01.11.2023 and the GR dated 09.03.2023 is not applicable to the petitioner. Is further submitted that, both the Courts below wrongly held that, the plaintiff failed to comply the condition of payment of lease premium though, as per Government Resolution dated 09.03.2023 and 03.07.2019, exemption/ extension is granted to the fishermen like the petitioner who is eligible. Therefore, the impugned orders are illegal, bad in law and prayed for quash and set aside the same.

9. On the other hand, Ms. Aparna Krishkumar Thete, Deputy Commissioner, filed affidavit in reply and strongly opposed the petition. The learned counsel for the respondents canvassed that in the year 2020, the respondents invited tenders for carrying out pisciculture activities in Kham and Savangi- Harsul Percolation Tank. After scrutiny, the petitioner was declared as successful bidder. Ultimately, on 01.10.2020, terms and conditions of the agreement were executed between the petitioner and the respondents. The said tender period expired on 30.09.2023. At the time of execution of the agreement, the petitioner had deposited lease premium and 10% escalation of lease premium prescribed for the next two years. As per the agreement, lease period was only for three years and no condition has been prescribed for extension of contract period. The learned counsel further canvassed that, the G. R. dated 09.03.2023 and 03.07.2019 are not at all applicable to the facts and circumstances of the present case. The petitioner is in arrears of Rs.4,81,882/- for the lease period from 29.10.2022 to 08.10.2023. The petitioner failed to deposit Rs.10,11,947/- as on 14.09.2024 as he was agreed. Therefore, considering the facts and circumstances of the case, both the courts below declined to grant temporary injunction. The findings recorded by both the Courts below are just and proper, hence, prayed for dismissal of the petition.

10. Having regard to the submissions canvassed on behalf of both

the sides, I have gone through the record. It is not in dispute that on 01.10.2020, agreement for Pisciculture came to be executed between the petitioner and the respondents. It is an admitted fact that, the petitioner was declared highest bidder.

11. Needless to say that though the petitioner claimed that due to lock-down, on 09.03.2023 the State Government issued resolution and granted exemption from payment of lease premium for the period 2021-22 and it was to be adjusted in recurring years, however, as per the agreement, the contract was for the year 2020-21- and it was to be renewed every year after due compliance of the terms of agreement. The petitioner has not produced any material on record to show that, he has complied with all terms and conditions of the agreement. So far as extension of lease period is concerned, as per G.R. dated 03.07.2019, it is prescribed about extension of lease period if conditions prescribed therein are fulfilled but it prima facie appears that the petitioner initially entered into contract for the period of three years and though lease period was extended, but the petitioner did not comply with condition of payment of lease premium. The prayer seeking temporary injunction on the basis of G. R. dated 03.07.2019 or 09.03.2023 does not appear bonafide and substantial. The lease period is already over and the petitioner is in huge arrears of Rs.10,11,947/- till 14.09.2024. Therefore, both the courts below

concurrently held that the petitioner failed to prove essential ingredients/criteria for grant of temporary injunction, which does not appear illegal, bad in law. Therefore, this Court is of the view that the findings recorded by both the courts below are appropriate and justifiable; hence, no interference is called for to disturb the said findings.

12. In view of the above discussion, the writ petition is dismissed. Pending civil applications, if any, also stand disposed of.

13. Rule is accordingly discharged.

(Y. G. KHOBRADE, J.)

JPChavan