



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10193 OF 2025

Raghunath Maruti Kanade

.. Petitioner

versus

The District Collector & others

.. Respondents

Mr. R. R. Karpe, Advocate for the Petitioner.

Mr. S. K. Shirse, AGP for the State.

Mr. D. S. Bagul, Advocate holding for Mr. P. B. Vikhe, Advocate for
Caveator.

CORAM : R. M. JOSHI, J.

DATE : 19th AUGUST, 2025.

ORDER :

1. By consent of both sides heard finally at the stage of admission.

2. This Petition takes exception to the order dated 10.06.2025 passed vide Exhibit 36 in Regular Civil Suit No. 6/2025 whereby the Trial Court has refused to extend the order of status quo granted in favour of the Plaintiff. It also takes exception to the order passed below Exhibit 45 whereby the preliminary issue with regard to the maintainability of the suit came to be framed.

3. Parties are referred to as Plaintiff and Defendants for the sake of convenience.

4. Facts which led to filing of this Petition can be narrated in brief as under :-

Plaintiff filed suit for declaration and perpetual injunction in respect of the suit property which is admittedly a gairan land. It is the contention of the Plaintiff that on 07.11.1958, possession of the suit property 1A was given to Nimgaondaku Grampanchayat by order passed by the Collector and mutation entry No. 909 was taken to that effect in the record of rights and 7/12 extracts too. It is further case of Plaintiff that he belongs to caste Gurav and is the Priest of the temple. He claims himself to be the landless person. It is further claimed that the Gram Panchayat handed over the suit property 1B to the Plaintiff in the year 1984 and since then, he is cultivating the said land and has made improvements therein.

5. Since obstruction was sought by Defendants to the possession of Plaintiff, suit for injunction came to be filed. An Application was filed for granting interim relief of status quo. Status quo was granted by order dated 18.02.2025. An Application was filed

vide Exhibit 36 for continuation of the same, which was refused by the Trial Court. In the meantime, Respondent No. 6 filed Application Under Order XIV Rule 2 of Code of Civil Procedure for framing preliminary issue. By order dated 01.07.2025, Application Exhibit 45 filed for that purpose came to be allowed an preliminary issue came to be framed. Being aggrieved by these orders, Petitioner/Plaintiff has filed this Petition.

6. Learned counsel for Petitioner submits that the Trial Court has committed serious error in not extending the order of status quo on 10.06.2025 though it was extended on 18.02.2025. It is his submission that non-extension of the order of status quo has caused prejudice to the Petitioner. It is his submission that the Trial Court can be directed to hear Application Exhibit 5 on merit and till then the order of status quo ought to have been extended. Insofar as the order passed on Application for framing preliminary issue with regard to the maintainability of the suit is concerned, it is his contention that the solar energy project cannot be considered as infrastructural project in order to apply provisions of Section 20A of the Specific Relief Act. On these amongst other submissions, he seeks setting aside of the impugned orders.

7. Learned counsel for contesting Respondents opposed the Petition on the ground that in view of provisions of Section 20A of the Specific Relief Act, there cannot be any injunction in respect of the infrastructural project. He drew attention of the Court to the Schedule to the said act indicating that the project in respect of energy comes under the purview of infrastructural project. It is his submission that the order of status quo was not passed on merit and hence after pointing out relevant provisions of the Specific Relief Act, the Trial Court has rightly refused to extend the said order of status quo. To support his submissions, he has placed reliance on following judgments :-

- (i) Jagpal Singh and others vs. State of Punjab and others
(2011) 11 Supreme Court Cases 396.
- (ii) Rajebhau s/o Mukinda Nampalle vs. The State of Maharashtra
& others, (Writ Petition No. 1957/2025 and others)

8. At the outset, it is made clear that this Court does not wish to comment upon the merits of the case as the same is required to be decided by the Trial Court. Suffice it to say that when an objection was raised with regard to the maintainability of the suit on the ground of bar created by Section 20A of the Specific Relief Act, framing of preliminary issue cannot be faulted with. It is for the Trial

Court to determine the said issue on merit recording finding as to whether the project of solar is infrastructural project as covered by Section 20A read with Schedule of the Specific Relief Act.

9. Insofar as continuation of status quo is concerned, since the status quo was not granted on merit, as of right it was not open for the Plaintiff to seek extension thereof. There is nothing on record to indicate that Plaintiff insisted for hearing of Exhibit 5 and it was refused by the Trial Court.

10. Having regard to the facts of the case, prima facie, this Court is of the view that order impugned passed by the Trial Court cannot be termed as perverse in order to cause interference therein.

11. Hence, Petition stands dismissed.

(R. M. JOSHI)
Judge

dyb