



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

18 WRIT PETITION NO. 15847 OF 2023

GORAKH SHANKAR LOHAR
VERSUS
SARPANCH GRAM PANCHAYAT MURUD AND OTHERS

Mr.S.R. Bagal h/f. Mr.B.N. Gadegaonkar, Advocate for the petitioner.

CORAM : KISHORE C. SANT, J.
DATE : 13.01.2025

PC :-

01. Heard learned Advocate for the petitioner for some time. The petitioner is original plaintiff who filed suit seeking perpetual injunction from interfering his possession over the suit land. The claim of the plaintiff is based upon judgment passed by the Tahsildar and Agricultural Tribunal, Latur. It is claim of the plaintiff that he is tenant in the suit land since long and respondents are trying to disturb his possession. Therefore, the suit was filed. He also filed Exh.-5 application seeking temporary injunction pending the suit. The learned Trial Judge passed order on 18.01.2021 rejecting the application by observing that the plaintiff has failed to prove prima facie case, balance of convenience and irreparable loss. Learned District Judge-4, Latur also dismissed misc.civil appeal by his judgment and order dated 26.03.2022. Said order is under challenge in this petition.

02. Learned Advocate Mr. Bagal vehemently argued that the plaintiff/petitioner is a protected tenant. There is also declaration under section 38 of the Hyderabad Tenancy and Agricultural Lands Act [for short "HTAL Act"], by the Tahsildar. Though this is the position, the respondents without any lawful authority are disturbing possession. Both the Courts below have wrongly held that the petitioner is not in possession. He thus prays for setting aside order passed by the learned District Judge-4 and to allow the application Exh.5 filed in suit bearing RCS No.269 of 2020 pending in the Court of learned 5th Jt. CJJD, Latur.

03. This Court has perused both the orders. There is concurrent finding that the petitioner has failed to establish prima facie case and balance of convenience. This Court has gone through the order passed by the Tahsildar declaring the petitioner/plaintiff as protected tenant. The order of the Tahsildar and Agricultural Lands Tribunal, Latur is of 28.08.2019. Said order shows that the Tahsildar directed the plaintiff to file proceedings under section 98 of the HTAL Act for possession. This clearly shows that at present the plaintiff is not in possession.

04. Considering above, this Court does not find any illegality in

recording findings by both the Courts below. Consequently this Court finds that there is no merit in the writ petition. The writ petition stands dismissed.

[KISHORE C. SANT, J.]