

Shabnoor

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.9713 OF 2022

Suhas Umaji Jadhav

... Petitioner

V/s.

Gram Panchayat Tisangi Through
Its Sarpanch & Anr.

... Respondents

Mr. Kuldeep U Nikam for petitioner.

Mr. Anilkumar K. Patil a/w Mr. Sachin Bhavar a/w Ms. Zeel
Jain a/w Mr. Dig Vijay A. Patil for respondent Nos.1 and 2.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 9, 2025

P.C.:

1. The petitioner (original plaintiff) is challenging the judgment and orders passed by the Courts below rejecting the application for temporary injunction restraining respondent – Gram Panchayat from disturbing the petitioner's possession over the suit property, except in accordance with law.

2. The petitioner filed Regular Civil Suit No. 115 of 2021, seeking a declaration that the notices issued by the Gram Panchayat are bad in law and illegal, and further prayed for a consequential injunction restraining the Gram Panchayat from disturbing the petitioner's possession of the suit premises or evicting him. Both the Trial Court and the Appellate Court, while rejecting the petitioner's application for a temporary injunction,

recorded findings that the petitioner failed to establish any legal right, title, or interest in the suit property. It is pertinent to note that the principles laid down under *Order XXXIX Rules 1 and 2* of the Code of Civil Procedure, 1908, require the applicant to demonstrate a prima facie case for the grant of such relief, which the petitioner failed to do.

3. The learned Advocate for the petitioner placed reliance upon an agreement allegedly executed by the then Sarpanch of the respondent Gram Panchayat. The said agreement purportedly permitted the petitioner to construct over the suit property and to occupy the premises. However, reliance on such an agreement must be viewed in the context of statutory limitations on the powers of the Sarpanch under the provisions of the *Maharashtra Village Panchayats Act, 1958* and other relevant legal frameworks. The principle of non-derogability of public property rights under statutory control applies here.

4. It is trite law that an injunction is an equitable remedy, and the grant of such relief is governed by well-established principles, including prima facie case, balance of convenience, and irreparable injury. It is not in dispute that the suit property is part and parcel of the Gram Panchayat's property. The Sarpanch, acting in his personal capacity, has no authority to execute such an agreement, as the powers and functions of a Sarpanch are limited to those expressly conferred by the statute and do not extend to alienating or permitting the use of public property without due resolution and sanction of the Gram Panchayat body. Any agreement executed contrary to these statutory provisions is void ab initio and

does not confer any legal right upon the petitioner. The findings of the Courts below, which rejected the petitioner's application for a temporary injunction, are thus in conformity with the law and principles governing public property management. Therefore, I find no ground to interfere with the impugned orders under Article 227 of the Constitution of India.

5. However, considering that an ad-interim relief in the form of a temporary injunction has been in operation in favor of the petitioner for more than three years, and to ensure the petitioner is not prejudiced unduly, it is directed that the said ad-interim relief shall continue for a further period of three weeks from today.

(AMIT BORKAR, J.)