

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

WRIT PETITION NO. 11613 OF 2025

Administrator, Grampanchayat
Masur And Anr.

...Petitioners

Versus

Sachin Amarsinh Rathod And Anr.

...Respondents

Adv. Kalpesh Patil, Advocate for Petitioner.

Adv. Shankar Katkar a/w. Adv. Ruturaj Kadam, Advocate for
Respondent No.1.

CORAM : S. G. CHAPALGAONKAR, J.

DATED : DECEMBER 16, 2025

P.C.:

1. Heard learned Advocates appearing for respective parties.
2. Present Petition takes exception to order dated 23rd September 2025 passed by District Judge, Karad in Miscellaneous Appeal No.7 of 2025, as well as order dated 22nd January 2025 passed by Civil Judge, Junior Division, Karad below Exhibits 5 and 8 in Regular Civil Suit No.365 of 2024.
3. Respondents/plaintiffs instituted Regular Civil Suit No.365 of 2024 before Civil Judge, Junior Division at Karad seeking relief

of perpetual injunction. They filed application below Exhibit-5 seeking temporary injunction against petitioner–Gram Panchayat. They also filed application below Exhibit-8 seeking removal of seal put by petitioner over suit property. It is contention of respondents that they were put in possession of suit property on basis of leave and licence agreement dated 2nd March 2024. Deputy Sarpanch of Village Panchayat was authorised to execute licence in favour of persons to whom village property was leased. Petitioner–Gram Panchayat issued notice calling upon respondent no.2 to hand over vacant possession of suit shop. Taking cause of action from said notice, suit came to be instituted.

4. Petitioner–Gram Panchayat filed written statement and refuted respondents' claim. Trial Court, after hearing rival parties, allowed applications filed by respondents below Exhibits 5 and 8 and restrained petitioner from disturbing possession of respondents over suit property. Petitioner assailed aforesaid order before District Judge, Karad in Miscellaneous Civil Appeal No.7 of 2025. The District Judge upheld order passed by Trial Court and dismissed appeal.

5. Mr. Kalpesh Patil, learned Advocate appearing for petitioner,

submits that respondents were served with notice under Section 53 of Maharashtra Village Panchayat Act for removal of encroachment. In this backdrop, statutory remedy of appeal before Commissioner under sub-section (3-A) of Section 53 of Maharashtra Village Panchayat Act was available. Apart from this, respondents, could have invoked jurisdiction of District Collector under Section 59 of Maharashtra Village Panchayat Act. Since alternate efficacious remedies were available, suit itself is not maintainable. Particularly, in light of law laid down by this Court in case of *Village Panchayat, Antora v/s. Wasudeo Ramchandraji Mohod & Anr* reported in *(2024) 5 Mah LJ 189*. Mr. Kalpesh Patil, would further submit that respondent has sought simplicitor relief of perpetual injunction without seeking declaration against statutory notice issued by petitioners. And on this count also suit liable to be rejected.

6. Learned Advocate appearing for respondents supports impugned order.

7. Having considered submissions advanced, it can be observed that both Courts have elaborately considered pleadings and material on record and have reached conclusion that respondents

were put in possession on basis of leave and licence agreement dated 2nd March 2024. As such, possession of respondents is prima facie lawful. Both Courts have also concluded that provisions of Maharashtra Village Panchayat Act, particularly Section 53, would not apply to facts of present case and that respondents cannot prima facie be termed as encroachers. Question as to validity of agreement dated 2nd March 2024 and entitlement of respondents to continue in possession can be decided during course of trial. Prima facie, this Court holds that remedies under Section 53(3-A) or Section 59 of Maharashtra Village Panchayat Act do not attract in facts of present case and respondents are entitled to prosecute suit claiming rights on basis of leave and licence agreement dated 2nd March 2024. Since both Courts have recorded concurrent findings on prima facie consideration of material on record, this Court does not find any reason to invoke extraordinary jurisdiction under Article 227 of Constitution of India.

8. In result, Writ Petition stands dismissed. However, Trial Court shall endeavour to decide suit expeditiously and preferably within a period of one year from date of this order.

9. Needless to state that observations made herein are based on prima facie consideration of legal and factual aspects. Trial Court shall not be influenced by these observations while deciding suit on merits.

(S. G. CHAPALGAONKAR, J.)