

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.14253 OF 2024

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SUBHASH
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Harijanwada Samaj
Through its occupants and Others ...Petitioners
vs.

Sarpanch Grampanchayat Alsund and Others ...Respondents

Mr. Pramod Kathane a/w. Mr. Manoj Sawardekar and Mr. Amol
Ghurde, for the Petitioners.

CORAM : N. J. JAMADAR, J.

DATE : FEBRUARY 5, 2025

P.C:

1. Heard the learned counsel for the parties.
2. The challenge in this petition is to the concurrent orders passed by the trial Court and the learned District Judge rejecting petitioners prayer for temporary injunction in Regular Civil Suit No. 247 of 2023.
3. The trial Court and the District Court were of the view that the material on record prima facie indicated that the State Government was the holder of the subject property.
4. Mr. Kathane, the learned counsel for the petitioners, urged that the Courts below have taken an incorrect view of the matter. The claim of the plaintiffs was negatived on the basis of an affidavit filed by the then Sarpanch of the Village Panchayat whose statement was recorded during the course of enquiry in the year

1983-84. Attention of the Court was invited to the extract of Enquiry Register (page 79 and 80 of the additional compilation of documents tendered for the perusal of the Court). Emphasis was laid on an entry in column No. 13 of the said Enquiry Register which indicates that during the course of enquiry statements were made on behalf of the predecessor in title of the plaintiffs that the area admeasuring 32.50 x 14.50 was in the possession and occupation of the members of Harijanwada Samaj community and it was being used for burial purpose.

5. The trial Court as well as the District Court have recorded a finding that the said entry does not command precedence as the subject property stood in the name of the State Government. In column No. 4 of the Enquiry Register the State of Maharashtra is shown as the holder of the subject property.

6. Prima facie, it appears that the subject property is a public property and particular person/persons do not have proprietary title over the subject property. In the Enquiry Register (page 79), the State of Maharashtra is shown as the holder of the subject property. In the assessment list, the property was shown as a public property and the Village Panchayat was shown as the holder of the property. Now a community hall is being constructed at the subject property. It is being put to public use. It further appears that during

the pendency of the proceedings, some development has taken place at the subject property. Thus, at this length of time, this Court does not find any justifiable reason to interfere with the discretionary orders passed by the Courts below.

7. The petition stands dismissed.

8. The trial Court is requested to hear and decide the suit as expeditiously as possible.

(N. J. JAMADAR, J.)