

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13995 OF 2025

Bandu Bhaguji Satav

..Petitioner

Versus

Shivaji Vitthal Tupe & Anr

...Respondents

Adv Namit Pansare, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE : 10th NOVEMBER 2025

ORDER:

1. Heard Mr. Pansare, the learned Counsel for the Petitioner.
2. The challenge in this Petition is to an order dated 7th July 2025 passed by the Civil Judge, Senior Division, Pune, whereby an Application for temporary injunction to restrain the Defendants-Respondents from transferring or alienating the suit premises or otherwise creating third party interest in the suit premises and change the nature of the suit premises, came to be rejected.
3. The Petitioner instituted a Suit purportedly under Section 6 of the Specific Relief Act 1963 ("the Act, 1963") asserting that, the Plaintiff was allotted 45 R land out of Gat No. 668 admeasuring 1 H 77 R under a Registered Partition Deed and the Plaintiff had erected shops and

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home-stay premises on the land admeasuring 5.53 R (“the suit premises”) out of the said 45 R land.

4. On 14th June 2024, the Defendants accompanied by the officials of the Land Records Department and Police carried out an illegal measurement of the Petitioner’s land purportedly to fix boundaries of the Gat No. 656. The Plaintiff alleged that the said measurement was unlawful and illegal and the Petitioner has challenged the same in a proceeding before the District Superintendent, Land Records.

5. On 15th June 2024, on the basis of the measurement dated 14th June 2024, the Defendants have allegedly dispossessed the Plaintiff of the suit property and demolished three shops, wall compound and one home-stay. Hence the Suit for recovery of possession of the suit premises under Section 6 of the Act, 1963.

6. In the said Suit, the Plaintiff took out an Application for interim injunction. By the impugned order though the Defendants did not contest the Application, the Civil Judge was persuaded to reject the Application observing, *inter alia*, that the measurement carried out by the officials of the Land Records Department indicated that the Plaintiff has *prima facie* committed encroachment over the land of the Defendants. There was no material to indicate that the Plaintiff had obtained permission from the competent authority for development. Nor the Plaintiff could establish his *prima facie* right and interest in the

suit property admeasuring 5.53 R. Therefore, the Plaintiff was not entitled to the injunctive relief.

7. Mr. Pansare, the learned Counsel for the Petitioner, submitted that the claim of the Petitioner-Plaintiff has gone untraversed and, yet, the Civil Judge rejected the Application for the interim reliefs. It was submitted that, the leaned Civil Judge ought to have granted protection to the Plaintiff in the nature of at least restraining the Defendants from creating third party rights in the suit property and directing the parties to maintain status-quo.

8. From the perusal of the material on record, it becomes abundantly clear that, though the Suit was instituted purportedly under Section 6 of the Act 1963, yet, the substantive prayers in the suit appear to be *prima facie* contradictory. In clause (b), the Petitioner sought restoration of possession of the premises of which he was allegedly unlawfully dispossessed. In contrast, in the prayer clause (c), the Petitioner sought to restrain the Defendants from dispossessing the Plaintiff of the suit property without following due process of law. Evidently, prayer clauses (b) and (c) are incompatible. If the Plaintiff is yet not dispossessed of the suit property, a suit for recovery of possession under Section 6 of the Act, 1963 would not be tenable.

9. Moreover, the learned Civil Judge has found that, the measurement carried out by the cadastral surveyors has revealed that

the Plaintiff was in possession of a portion of the land bearing Survey No. 656. The challenge to the measurement awaits adjudication before the Superintendent of Land Records.

10. *Prima facie* the view of the learned Civil Judge that the Petitioner failed to demonstrate that he was in possession of the Suit premises and has since been dispossessed, does not appear to be perverse or contrary to the settled principles of law. As the factum of possession and dispossession itself appears to be debatable, the learned Civil Judge was justified in declining to grant injunctive reliefs.

11. Thus, no interference is warranted in exercise of supervisory writ jurisdiction.

12. The Petition, therefore, stands dismissed.

[N. J. JAMADAR, J.]