

Ashish

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

**INTERIM APPLICATION NO.7751 OF 2025
IN
WRIT PETITION NO.122 OF 2025**

Rohidas Damodar Undre ... Applicant

V/s.

Vikas Damodar Undre And Ors ... Respondents

**WITH
INTERIM APPLICATION NO.7752 OF 2025
IN
WRIT PETITION NO.122 OF 2025**

Vikas Damodar Undre And Ors ... Applicants

V/s.

Sandeep Dnyanoba Undre And Ors ... Respondents

Mr.Prasad Dani, Senior Advocate i/b Mr. Abhijit B
Kadam a/w Ashish Chavan for Applicant.

Mr.Sandeep Phatak a/w Mr. Adhik Kadam, for
Petitioner.

Mrs.V.S. Nimbalkar, AGP for State.

Mr. Ravindra S. Pachundkar, for Respondent Nos.4, 5 &
7.

CORAM : AMIT BORKAR, J.

DATED : APRIL 29, 2025

P.C.:

1. By these applications, the applicant is seeking modification of the order dated 09/04/2025, whereby this Court continued the interim order dated 12/09/2022, passed by respondent no.1. In short, the applicant prays that the interim order, which presently

operates, be either recalled or suitably modified.

2. Mr. Dani, learned Senior Advocate appearing on behalf of the applicant, invited my attention to three resolutions dated 07/01/2020, 20/02/2020, and 28/02/2020. He submitted that the first resolution dated 07/01/2020, had already taken a decision to transfer the property in favour of the institution headed by the applicant. According to him, the subsequent resolution dated 20/02/2020 merely confirmed the earlier decision. Therefore, he contended that there was no occasion or necessity for the applicant to engage in any activities alleged against him after 20/02/2020.

3. It was further argued that the order dated 09/04/2025 was passed by this Court without affording an opportunity of hearing to the applicant, thereby causing serious prejudice. He submitted that the substantive proceedings by way of a revision are already pending before the Revisional Authority. In such circumstances, he urged that registration of any FIR at this stage would render the revision proceedings infructuous and cause unnecessary complications. Therefore, according to him, the interim order should be recalled to protect the applicant's interest until the revision is decided.

4. On the other hand, the learned counsel appearing for the petitioner opposed the prayer. He also placed reliance upon the very same resolutions dated 07/01/2020, 20/02/2020, and 28/02/2020, but urged a different interpretation. It was contended that the first two resolutions — dated 07/01/2020 and 20/02/2020 — merely decided to transfer a building structure in

favour of the institution headed by the applicant. However, by the third resolution dated 28/02/2020, an entirely independent property, namely a playground, was additionally decided to be transferred to the said institution.

5. The learned counsel submitted that the allegations made against the applicant, including statements recorded during the inquiry, relate specifically to the transfer of this playground pursuant to the third resolution dated 28/02/2020. He further pointed out that although a Public Interest Litigation (PIL) challenging the transfer of Gram Panchayat property to a private institution had been earlier dismissed by this Court, the Hon'ble Supreme Court, by its order dated 14/11/2024, remitted the proceedings back to this Court for reconsideration on certain specific questions. Paragraph No.7 of the order of the Hon'ble Supreme Court reads as under:

“7. The question as to whether (i) The village community will be the direct beneficiary of transfer of the Gram Panchayat land to a private Trust? (ii) What kind of activities the Trust has commenced and/or intends to start at the site? (iii) Whether the Gram Panchayat would have been able to utilize the land in a better way for the benefit of the village community; and (iv) Whether there is an element of arbitrariness in allotment of the land thereby causing financial loss to the Gram Panchayat, are the questions which need to be determined by an independent Arbitrator.”

6. It was thus submitted that the interim protection granted by this Court on 09/04/2025 was justified, as it ensures that no irreversible situation is created before the adjudication on merits takes place, particularly when serious issues concerning public property and public interest are involved. It was urged that merely because revision is pending before the Revisional Authority, it does not automatically entitle the applicant to seek recall or modification of interim relief already granted by this Court, especially when larger questions framed by the Hon'ble Supreme Court are under consideration.

7. Having carefully perused the record and upon thoughtful consideration of the rival contentions, I am of the considered opinion that at this stage it would not be appropriate for this Court to conclusively adjudicate upon the substantive rights of the parties, particularly when the issue stands seised before the Revisional Authority. The present proceedings are confined to the consideration of a prima facie case, and in that limited context, it becomes necessary to assess whether the interim protection earlier granted warrants any interference.

8. A perusal of the order dated 09/04/2025 would reveal that this Court had, upon taking into account the facts then presented, found it appropriate to continue the interim relief. The primary grievance raised on behalf of the applicant, that the petitioner approached this Court after a lapse of nearly three years, does not, in my opinion, hold sufficient weight in the present context. The core of the issue pertains to transfer of public property — Gram Panchayat land — and not to any individual or private right of the

petitioner. Where public interest and the larger community's rights are involved, technical objections of delay cannot outweigh the need for judicial scrutiny. It is well settled that when matters of public property and communal welfare are involved, the Court ought to adopt a broad and purposive approach rather than a pedantic or rigid view.

9. At this juncture, it is also necessary to bear in mind that the Hon'ble Supreme Court, by its order dated 14/11/2024, has remitted the larger and substantive issue touching upon the legality of the transfer of the Gram Panchayat land to a private trust, for fresh adjudication by this Court. The very questions framed by the Hon'ble Supreme Court, as extracted earlier, amply demonstrate that the dispute concerns vital public interests. The adjudication upon these questions is pending consideration before this Court.

10. Upon further reflection, it emerges that the statements recorded by the Inquiry Officer, which form part of the material placed on record, prima facie make allegations against the applicant concerning the transaction in question. At this preliminary stage, it would not be appropriate, nor permissible, for this Court to enter into a deeper examination regarding the veracity, correctness, or admissibility of such statements. Such an enquiry must necessarily be left either to the Revisional Authority before whom the revision is pending, or to the appropriate forum that may be called upon to deal with any criminal proceedings, should they be initiated. The jurisdiction of this Court at this stage is limited to determining whether a case is made out for recalling

or modifying the interim relief. In my considered view, for the reasons stated above, no such case is made out.

11. Nonetheless, to ensure fairness in the pending proceedings, it is clarified that the Revisional Authority shall proceed to decide the pending Revision Application independently, uninfluenced by any observations made by this Court in its order dated 09/04/2025 or in the present order. The Revisional Authority shall adjudicate upon the rights and obligations of the parties strictly on the basis of material placed before it and in accordance with law.

12. In view of the foregoing discussion, both the applications stand disposed of, without any order as to costs.

(AMIT BORKAR, J.)