



1919-2025

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1919 OF 2025

(Dipak s/o Mahadevrao Ambarwele Vs. Municipal Council, Hinganghat, through its Chief Officer)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. Jitesh Duhilani, Counsel for the petitioner (appointed).
Mr. Mahesh Dhatrak, Counsel for the respondent/caveator.

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CORAM : ANIL L. PANSARE, J.
APRIL 5, 2025

The challenge is to order dated 27/1/2025 passed below Exh. 13 by the District Judge – 1, Hinganghat, District – Wardha, in Miscellaneous Civil Appeal No. 13/2024, thereby rejecting the appeal. The First Appellate Court upheld order dated 8/8/2024 passed below Exh. 5 by the Joint Civil Judge Junior Division, Hinganghat, in Regular Civil Suit No. 195/2022. The application filed by the petitioner – original plaintiff seeking injunction by restraining the respondent – defendant from disturbing his possession, was dismissed by the trial Court.

2] Having heard both sides and having gone through the record, including the impugned orders, it appears that the petitioner himself came up with a case that the encroachment made by him was regularized or should have been regularized by the respondent. The petitioner claimed that vide Government Resolution dated 4/4/2002, his possession ought to have been regularized.

3] The First Appellate Court noted that the aforesaid resolution merely prescribes the procedure for regularization and is not, in itself, an order of regularization. This view is correct.

4] The Court further noted that the land under question is required for road widening, which is underway. This fact is not disputed by the petitioner.

5] It further appears that the respondent has, by resolution, decided to rehabilitate the persons, like the petitioner, in a shopping complex to be constructed, in fact, the construction is under progress. The name of the petitioner appears in the list of beneficiaries. There is, however, a condition to deposit certain amount to become eligible for rehabilitation. The petitioner appears to have not deposited the amount.

6] The First Appellate Court then referred to Section 41(ha) of the Specific Relief Act, 1963, which provides for refusal of injunction if it would impede or delay the progress or completion of any infrastructure project.

7] Thus, the Courts below have duly considered the relevant facts and provisions while dismissing the application seeking injunction. There appears no reason why should the petitioner insist to stay at the plot, which he had encroached, and further, when an alternative arrangement was made by the respondent for rehabilitation, the petitioner ought to have deposited the requisite amount in order to get accommodated in the shopping complex, which is under construction.

8] There is, thus, no merit in the petition. The petition is dismissed in *limine*. No order as to costs.

9] The fees of the learned Counsel appointed for the petitioner be paid as per Rules.

(ANIL L. PANSARE, J.)

Sumit