



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

Appeal Against Order No.6 of 2025

Sheikh Latif s/o Sheikh Ishaq

vs.

State of Maharashtra, through its Collector, Gondia and others

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. M.P. Khajanchi, Advocate for the Appellant.
Mrs. Hemlata Dhande, A.G.P. for the Respondents.*

CORAM: ROHIT W. JOSHI, J.
DATE : 10th OCTOBER, 2025.

Heard.

02. The present appellant is admittedly an encroacher on Government land. Notices for removal of encroachment were issued to the appellant on 03/02/2023 and 13/02/2023. The appellant has filed a suit being R.C.S. No. 55/2023 seeking a declaration that the said notices are illegal and void. Apart from this, a decree for perpetual injunction is sought, restraining the respondents/defendants from disturbing his possession over the suit property.

03. The application for temporary injunction in the said civil suit was rejected, and the appeal arising therefrom was also dismissed. The appellant approached this Court challenging the aforesaid orders rejecting the prayer for temporary injunction. Vide order dated 26/05/2023 passed in Writ Petition No. 3324/2023, the parties were directed to maintain status quo, in view of the fact that *prima facie* the appellant appeared to be in possession of the suit property since the year 1984. Subsequently, the petition was finally decided vide order

dated 07/03/2024, directing the parties to maintain status quo till disposal of the civil suit. The civil suit was ordered to be decided within a stipulated time period.

04. The suit filed by the appellant was dismissed vide judgment and decree dated 28/03/2025. A perusal of the findings with respect to Issue No. 5 demonstrates that the appellant is admittedly in possession of the suit property. The appellant has filed an appeal challenging the judgment and decree, being R.C.A. No. 27/2025. In the said appeal, the application for temporary injunction came to be rejected vide order dated 02/05/2025, which is the subject matter of challenge in the present appeal.

05. Mr. Khajanchi, learned Advocate for the appellant contends that the appellant is admittedly in possession of the suit property, as recorded in the order dated 26/05/2023, which noted *prima facie* possession since 1984. The learned Advocate further contends that respondent No. 1 has issued a Government Resolution dated 04/04/2002, which provides for regularization of encroachments such as the one made by the appellant.

06. The learned Advocate submits that the suit was dismissed on the ground that regularization of encroachment made for commercial purposes cannot be granted. He draws attention to Clause (3) of the Government Resolution to contend that regularization of encroachments for commercial purposes is also permissible. He, therefore, contends that the status quo, which is prevailing as on date, should be allowed to continue till the final disposal of the appeal. He further prays that the learned Appellate Court be directed to decide the appeal expeditiously.

07. Mrs. Dhande, learned Assistant Government Pleader, strongly opposes the request. She contends that the material on record does not indicate that the case of the appellant falls within the window period prescribed under the Government Resolution dated 04/04/2002. She further states that, in view of Clause (7) of the said Government Resolution, encroachments cannot be regularized after 01/01/1995.

08. The findings recorded by the learned Trial Court also indicate that the encroachment by the appellant is on land reserved for a road as per the development plan of Gondia. In the event that the road is proposed to be constructed, it will be open for the respondents to make a motion for modification or vacation of this order.

09. In that view of the matter, in the considered opinion of this Court, since the temporary injunction has been operating throughout, it would be appropriate that the *status quo* in respect of possession be maintained till the final disposal of the appeal.

10. In view of the above, the order dated 02/05/2025 passed by the learned District Judge-2, Gondia on the application at Exh.5 in R.C.A. No. 27/2025 is quashed and set aside, and the said application is allowed. The learned First Appellate Court is requested to decide the appeal expeditiously and preferably, in any case, on or before 30th September, 2026.

11. The appellant appears to be in possession of the suit property since the year 1984. Without expressing any final opinion at this stage, it appears that the case may be covered under Clause (3) of the Government Resolution dated 04/04/2002.

12. The appellant shall file a private paper book before the learned First Appellate Court on or before 30th November, 2025 and shall not seek unnecessary adjournments in the matter.

13. The appeal against order is allowed and disposed of accordingly with no order as to costs.

JUDGE

**sandesh*