



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

WRIT PETITION NO. 5948/2025

(SURENDRA VINAYAKRAO DESHMUKH **VERSUS** THE COMMISSIONER, MUNICIPAL CORPORATION, AMRAVATI & ANOTHER)

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

Court's or Judge's order

Shri A.M. Sudame, counsel for the petitioner.
Shri R.D. Dharmadhikari, counsel for the respondent no.1.
Ms D.V. Sapkal, Assistant Government Pleader for the respondent no.2.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : NOVEMBER 13, 2025

Heard the learned counsels for the parties.

2. By this petition, the petitioner has challenged the concurrent orders passed by the trial and the appellate Court refusing to grant temporary prohibitory injunction to restrain the respondents from making construction of Arch Gate (Entrance Gate).

3. The petitioner is the original plaintiff who has filed the suit seeking declaration, permanent and mandatory injunction against the defendants with respect to construction of an arch gate (entrance gate) in front of his house property. The plaintiff filed a separate application at Exhibit 5 seeking temporary injunction to restrain the defendants from carrying out construction. The trial Court rejected the application by order dated 01.08.2025. The petitioner challenged the said order *vide* Miscellaneous Civil Appeal no.36 of 2025 which came to be rejected by judgement and order dated 18.09.2025. The petitioner has challenged the concurrent orders of the Courts below by way of instant petition.

4. The primary contention of the counsel for the petitioner is, the work of construction of Arch Gate (Entrance Gate) is started by the respondents in front of the house of the petitioner thereby blocking access to his house. It is submitted that the respondents were allotted the work of construction of Arch Gate (Entrance Gate) in front of Amba Devi Temple in Amravati at the spot described as 'Opposite Deeparchan' and despite this, construction is started in front of the house of the petitioner-plaintiff which is far away from the spot of 'Deeparchan'. The plaintiff therefore sought for a temporary prohibitory injunction to stop the entire construction activity which has although reached at the stage of erection of columns. It is therefore submitted that in view of possibility of blocking access to the petitioner's house, the temporary prohibitory injunction ought to have been granted.

5. Strongly opposing the petition, Shri R.D. Dharmadhikari, learned counsel for the respondent no.1 submitted that the construction of the entrance gate is a part of beautification of the road in front of Amba Devi temple situated in Amravati. He submitted that the construction is carried out at the public place and not on the land belonging to the petitioner. He submitted that the construction is at an advanced stage and is not in any way blocking access to the house of petitioner. He, therefore sought for the dismissal of the writ petition.

6. While considering the rival submissions, it has to be seen that the respondent no.1 has started the construction after obtaining sanction from the competent authority as observed by the trial Court while deciding the application for temporary injunction. The respondent no.1 has already placed on record of the trial Court a copy of the sanctioned map and the work order. Pertinently, although the petitioner has sought for the temporary prohibitory injunction seeking to stop the construction activity, no *prima-facie* case is demonstrated by showing either any right of the plaintiff over the land on which the construction activity is going on or violation of any other right much less right of access to his house property. Further, considering the fact that the construction activity was started after obtaining due sanction and considering the fact that the grievance is raised by the petitioner after the construction reached at an advanced stage, the factor of balance of convenience does not lie in his favour. In absence of any right being demonstrated in his favour, the petitioner is not entitled to claim any temporary prohibitory injunction.

7. A perusal of the impugned orders passed by the trial as well as the appellate Court shows that there is no arbitrariness in exercise of discretion while rejecting the application for temporary injunction. Both the Courts below have given due consideration to the aspects of *prima-facie* case, balance of convenience and irreparable loss. No perversity is demonstrated with the approach adopted by the Courts below. I find no reason to interfere with the discretionary orders passed by both the Courts.

8. In view of abovementioned factual and legal aspects, no interference under Article 227 of the Constitution of India is warranted with the impugned orders. The writ petition deserves to be dismissed and the same is dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

APTE