



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

WRIT PETITION NO.7927 OF 2025

GANPATRAO RAGHUNATH TALKHANDE

VERSUS

NAGPUR IMPROVEMENT TRUST, THR. CHAIRMAN, NAGPUR AND
ANOTHER

<i>Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders</i>	<i>Court's or Judge's orders</i>
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Ms. P.S. Kaware, Advocate for Petitioner.

Mr. G.A. Kunte a/w Ms. Namrata Meshram, Advocate for Respondents.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATED : 12th DECEMBER 2025

PER COURT :-

1. Heard learned Advocate for the petitioner as well as learned Advocate for the respondents.

2. In view of the urgency pointed out by the learned Advocate for the petitioner, a notice was issued in the petition on 11th December 2025, and in response to the same, Advocate Mr. G.A. Kunte, had appeared for the respondents Nagpur Improvement Trust and its Officials.

3. The petitioner has challenged the order dated 09.12.2025, passed by Joint Civil Judge Junior Division Nagpur, in Regular Civil Suit No.1279 of 2025, rejecting the application for grant of *status quo* in the pending suit.

4. Learned Advocate for the petitioner submits that the respondents have issued a notice dated 14.11.2025, addressed to the petitioner calling upon him to remove the encroachment of iron gate on the 'open space' of layout of Mamata Co-operative Housing Society, on land bearing Khasara Nos. 19/1Ch, 19/1k, 19/1kha and 31/1k. She submits that the petitioner has challenged the said notice by way of the suit bearing R.C.S. No.1279 of 2025, in which he has claimed that he is owner of land bearing Khasara No.19/1/D and the iron gate was put by him on his own land. She submits that the respondents are intending to develop the land by constructing a garden for the residents of Mamata Co-operative Housing Society. She submits that although the iron gate is already removed, further development work is in process and therefore, she has filed a separate application for grant of temporary injunction in the suit, which is pending. She submits that the petitioner/plaintiff has also filed an application dated 04.12.2025, in the suit, for grant of *status quo*, which came to be rejected by the impugned order and the same is subjected to challenge by way of instant petition.

5. Learned Advocate for the petitioner further submits that the suit filed by the petitioner is pending and before adjudication of decision about the issue of ownership of the petitioner over the said land, the development activities cannot be permitted. She submits that

the development activities are being carried out by the respondents without giving any notice to the petitioner to submit the documents of his ownership over the portion of land. She submits that before starting development work, the respondents have failed to identify the properties.

6. As against this, learned Advocate for the respondents submits that the land in question on which development activities are started by the respondents is earmarked as an 'open space', which is part of the layout of Mamata Co-operative Housing Society, which was regularized under The Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001, in the year 2003. He submits that there existed an iron gate on the land, which is earmarked as an 'open space' of the layout of Mamata Co-operative Housing Society and despite notice dated 14.11.2025, when the gate was not removed, the respondents have started the development activities. He submits that the garden is being developed by the Nagpur Municipal Corporation and despite this, it is not arrayed as a party either in the suit or in the instant petition and as such, he opposes the request for grant of *status quo*. As regards the contentions about identification of the property, he submits that the properties were duly identified at the stage of regularization of the Gunthewari development in the year 2003 itself and thereafter, the land was

earmarked as an 'open space', on which Nagpur Municipal Corporation is developing a garden. He also submits that the petitioner has not produced before the authorities or before the court any city survey map, sub division plan or property card showing ownership of the petitioner/plaintiff over the said land.

7. While considering the rival contentions, it has to be seen that the petitioner has filed the suit for declaration, removal of encroachment and permanent injunction vide R.C.S. No.1279 of 2025, with following prayers :

"A. Declare that the Plaintiff is the absolute and lawful owner and possessor of the suit property i.e. land bearing Khasra No. 19/1/D admeasuring 0.39 HR situated at Mouza Sonegaon, Nagpur.

B. Declare that the alleged notice issued by Defendant No. 2 alleging encroachment on Open Space/Public Utility Land is illegal, null and void and not binding on the plaintiff.

C. Grant a decree of Permanent Injunction restraining the Defendants, their agents, servants, officers or anybody claiming through them from disturbing or interfering with the peaceful possession and enjoyment of the suit property by the plaintiff.

D. Direct the defendants to remove any unauthorized encroachment, obstruction or marking created on the suit property by them, if any, and restore the suit property to its original position.

E. Grant costs of the suit.

F. Any other relief which this Hon'ble Court may deem fit and proper in the interest of justice."

8. Having gone through the above mentioned prayer clauses, it is clear that the petitioner/plaintiff has claimed ownership over the land bearing Khasara No.19/1/D and the application for temporary injunction is also pending. The petitioner has even not produced before this Court the copy of application for temporary injunction filed before the trial court. A perusal of the application for *status quo* shows that only because the suit is pending, the petitioner has sought for *status quo* to halt the development project initiated by Nagpur Municipal Corporation, which is not joined as party to the suit. A perusal of the impugned order shows that the trial court has categorically observed that the petitioner/plaintiff has not placed on record any documents in respect of ownership of said land and no case is made out for granting any order of *status quo*. I find no perversity in the impugned order.

9. Needless to state that the petitioner/plaintiff is entitled to prosecute his suit seeking declaration as prayed for and claim damages if situation arises. At this stage, no case is made out warranting indulgence in the impugned order and granting any *status quo*. Therefore, the instant petition deserves to be dismissed.

10. In view of the above, the Writ Petition is dismissed with no order as to costs.

(PRAFULLA S. KHUBALKAR, J.)

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