



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

WRIT PETITION NO. 3232 OF 2025

Smt. Jayshree Jaywant Deshpande and others ... Petitioners.

Versus

Nagar Parishad, Rajura ... Respondent
...

Ms.Kirti Satpute, Advocate for petitioners.
Dr.Renuka Sirpurkar, Advocate for the respondent.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 13th AUGUST 2025.

FINAL ORDER

1. Heard Ms.Kirti Satpute, learned counsel for the petitioners and Dr. Renuka Sirpurkar, learned counsel for the respondent-Nagar Parishad.
2. The petitioners have challenged the order dated 01.04.2025 passed by the District Judge-1, Chandrapur, in Misc. Civil Appeal No.66/2024 upholding the order dated 15.11.2024 passed by the Court of Civil Judge (Junior Division), Rajura, in Regular Civil Suit No.42/2024 by which, the application for temporary injunction filed by the petitioners was rejected.
3. The petitioners being the original plaintiffs filed a Regular Civil Suit seeking permanent injunction to restrain the respondent-

Nagar Parishad from digging and constructing concretization of a drainage (Nali) through Survey nos.107, 108 and 110 which are alleged to belong to the plaintiffs. Along with the plaint, they filed a separate application for temporary injunction at Exhibit-5, which was rejected by order dated 15.11.2024. The plaintiffs thereafter challenged this order by way of an Appeal under Order XLIII Rule 1(r) of the Code of Civil Procedure, vide Misc. Civil Appeal No.66/2024, which came to be dismissed by judgment and order dated 01.04.2025. The plaintiffs have assailed both these orders by way of the present writ petition.

4. Ms. Satpute, learned counsel for the petitioners, vehemently submitted that the petitioners are owners of Survey nos.107, 108 and 110 situated at mouza Rajura, Tahsil Rajura, District-Chandrapur. She submitted that the petitioners apprehended that the respondent-Nagar Parishad has started construction of a sewage drain from Survey no.105 which was likely to cause damage to the petitioners' crops in their lands. Based on this apprehension, the petitioners filed suit seeking permanent and mandatory injunction. In the plaint, the plaintiffs have specifically pleaded that there was no drainage line over the suit property and the proposed construction of drainage from the plaintiffs property violated the

plaintiffs' right. She submitted that the spot inspection report dated 10.06.2024 conducted by the authorities cannot be relied upon to conclude that the proposed drainage construction is outside the petitioners' property. She, therefore, submitted that the Trial Court failed to take into consideration that the proposed construction by the respondent-Nagar Parishad was required to be stayed by granting temporary injunction. She submitted that even the Appellate Court wrongly considered the factual aspects and maintained the order of temporary injunction application.

5. Per contra, Dr.Sirpurkar, learned counsel for the respondent-Nagar Parishad, strongly opposed the writ petition. She submitted that both the Trial Court and the Appellate Court have duly considered the factual aspects of the matter. She pointed out that the inspection report dated 10.06.2024 clearly showed that the proposed drainage is sought to be constructed on the boundary of Survey nos.105 and 107, so as to connect it with the east-west flowing natural drainage, situated at the north-east corner of Survey no.107. She submitted that the respondent-Nagar Parishad is constructing the work of concretization of drainage lane and no construction is being made in the property of the plaintiffs. She submitted that the Trial Court has rightly exercised the discretion, to reject the temporary

injunction application. She also submitted that the petitioners failed to demonstrate any perversity in the impugned order and, therefore, the Appellate Court rightly refused to interfere with the discretionary order.

6. The petitioners have challenged the orders passed by the Trial Court and the Appellate Court on the application for temporary injunction. A perusal of the impugned orders reveals that both the Trial Court and the Appellate Court rejected the application for temporary injunction after considering the spot inspection report dated 10.06.2024, which indicated that the drainage was being constructed on the boundary of Survey nos.105 and 107. It is pertinent to note that the documents placed on record, particularly the representation dated 24.05.2024 submitted by the plaintiffs to the Nagar Parishad clearly mention about existence of a drain adjoining the property bearing Survey no.105. The contentions of the petitioners that the constructions of drain (nalli) by Nagar Parishad alleged to be in the property belonging to the petitioners cannot be concluded at this stage only on the basis of bare allegations. The Trial Court, upon considering the essential factors, including the absence of a prima facie case and other relevant considerations, passed the impugned order refusing to grant injunction. The discretionary order

refusing to grant injunction is maintained by the Appellate Court. The petitioners have failed to demonstrate any perversity in the impugned orders and therefore, no interference is warranted under Article 227 of the Constitution of India.

7. Writ Petition, therefore, deserves to be dismissed and the same is dismissed. There shall be no orders as to costs.

(PRAFULLA S. KHUBALKAR, J.)

Mukund Ambulkar