



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3886 OF 2024

Mirabai Shrikrishna Raut And Others

VERSUS

Ramkisan Vithoba Pingle And Others

...

Mr. Prathmesh Kundalwadikar h/f Mr. A. A. Fulfagar,
Advocate for the Petitioners

Ms. P. A. Deshpande i/b J. P. Legal Associates, Advocate for
Respondent no.4

Mr. K. R. Rathod, Advocate for Respondent nos.1 to 3

.....

CORAM : AJIT B. KADETHANKAR, J.

DATED : 25TH MARCH, 2026

ORDER :-

. Heard Learned Counsel for the petitioners and Learned
Counsel for the respondents.

2. Regular Civil Suit No.29 of 2022 is pending before the
learned Civil Judge Senior Division, Ambad. The suit is filed
seeking perpetual injunction against the respondents. It is the
contention of the petitioner that at the instance of the present
respondent nos.1 to 3, the respondent no.4/Municipal Council
initiated action against the present petitioners property. He
would submit that respondent nos.1 to 3 had filed a complaint
alleging that the petitioners have encroached upon the public
land, and hence an action was solicited from the Municipal
Council against the petitioners/plaintiffs.

3. In the suit, the petitioners filed an application under Order 39 Rule 1 and 2 read with Section 151 of CPC. This application was for temporary injunction against the respondents preventing them from interfering into the peaceful possession of the petitioners over the suit property. After hearing the parties, the Trial Court found that the defendants particularly defendant no.4 could not show *prima facie* that the plaintiffs/petitioners have committed any encroachment. However the Trial Court has observed that in any case, the respondent no.4/Municipal Council is well empowered to take appropriate action in accordance with law, if any encroachment is noticed. Observing that the case of encroachment is not made out, the Trial Court partly allowed plaintiffs' application.

4. The order was taken up by respondent no.1 to 3 in the appeal vide Miscellaneous Civil Appeal No.18 of 2022 in the Court of learned District Judge, Ambad. After hearing the parties, the learned District Judge-2, Ambad allowed the appeal and set aside the order dated 11.07.2022 passed by the Trial Court imposing injunction against the respondents. As against that, present petition is filed by the plaintiffs/petitioners.

5. The suit is of 2022. The petitioners have lost injunction vide order dated 12.02.2024. It is informed that the trial is in progress and evidence is also part heard. As such, the very object of securing temporary injunction under Order 39 Rule 1 and 2 has lost its significance due to passage of time.

6. I have also gone through the findings rendered by the District Court which are based on the facts and documents produced before it. The learned District Court has re-assessed the facts of the case and thereafter arrived at conclusion that the plaintiffs were not deserving for the temporary injunction. I do not find any infirmity in the order passed by the District Court. As such, the Writ Petition stands dismissed.

7. The Trial Court is requested to make every endeavour to conclude the trial within a period of eight months from today. The parties shall not take unnecessary adjournments and shall not protract the suit proceedings. Observations in this order shall not affect rights of the parties in the suit. The observations are prima facie and to the extent of Order 39 Rule 1 and 2 of CPC.

(AJIT B. KADETHANKAR, J.)