



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

WRIT PETITION NO. 4529 OF 2024

Amalner Municipal Council Amalner Throug Hits Chief Officer

VERSUS

Manohar Wasumal Tolani Sindhi And Others

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Mr. G. S. Rane, Advocate for the Petitioner

Mr. D. P. Palodkar, Advocate for Respondent no.1

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CORAM : AJIT B. KADETHANKAR, J.

DATED : 30TH MARCH, 2026

FINAL ORDER :-

. claiming rights over the shops and tenements constructed by the Amalner Municipal Council as a long standing occupant in the old tenements of the council, the respondents filed Writ Petition No.2631 of 2019 in this Court. It was the case of the petitioners therein that under a long standing lease, they had occupied the shopping complex premises constructed and owned by the Amalner Municipal Council in the city of Amalner. The lease was lapsed in the year 2011. Thereafter, the Muicipal Council sought to construct new administrative building on the land which also included a few shops and tenements.

2. The project was undertaken on a BOT (Build-Operate-Transfer) basis, whereby some shops were to be allotted to the builders and some were to be retained to the Municipal Council. Resolution was passed by the then Municipal Council

to allot some shops to the respondents at a fixed rate of Rs.5,51,000/-. This gave rise to a controversy between the respondents, the builder, and the Municipal Council. The issue pertained to whether the respondents were entitled to allotment of tenements from the share of the Municipal Council or that of the builder. In this Writ Petition, this Court in the year 2019 imposed status-quo in respect of allotment of the tenements/shops in the newly constructed shopping complex.

3. Vide order dated 10.03.2023, this Court granted leave to the petitioners therein/present respondents to withdraw the Writ Petition with liberty to file a Civil Suit. The interim relief already granted was kept operational only till 10.04.2023.

4. Subsequently the petitioners therein / present respondents filed a Civil Suit No.42 of 2023 in the Court of learned Civil Judge Junior Division, Amalner. The suit was for declaration, direction and perpetual injunction. The suit in nutshell was for declaration regarding entitlement of the plaintiffs to specific shops/tenements. Perpetual injunction was sought to restrain the Municipal Council from frustrating the claim of the plaintiffs by allotting the said shops to others. In the suit, an application under Order 39 Rule 1 and 2 read with Section 151 of the CPC came to be filed seeking temporary injunction against the Municipal Council, Amalner thereby restraining the council from allotting 14 shops by auction.

5. After hearing both the parties, vide order dated 17.04.2023, the learned Civil Judge Junior Division, Amalner granted temporary injunction in terms of the prayer against the Municipal Council.

6. The petitioner/Municipal Council took exception to the order dated 17.04.2023 passed by the Trial Court vide Miscellaneous Civil Appeal no.9 of 2023. In the appeal, the appellate Court heard the parties and modified the impugned order thereby restraining the interim injunction to the extent of three shops considering the number of plaintiffs in the suit.

7. Mr. G. S. Rane, learned Counsel for the petitioner appearing for the Amalner Municipal Council submits that as against the injunction orders, the petition is filed by the Municipal Council. The petition is filed on 08.04.2024. There is no order passed by this Court interfering in the injunction order passed by the District Court.

8. Mr. D. P. Palodkar, learned Counsel appearing for the plaintiffs in the suit would submit that the suit is now posted for evidence. He would submit that the findings recorded by the Trial Court as also by the District Court are on facts. He would pray that the petition be disposed thereby directing the Trial Court to conclude the trial hearing within a stipulated period. He submits that considering the long standing interim order in favour of the plaintiffs, the interim order be made operational till disposal of the suit. On instructions from his client, he submits that the plaintiffs undertake not to take a

single adjournment without a justifiable reason nor shall protract the suit proceedings on any count and by instituting any proceedings that will protract the hearing of the Civil Suit.

9. Mr. G. S. Rane, learned Counsel for the petitioner/Municipal Council though reserving his objections to the observations made by the Trial Court as also by the Appellate Court would in fact request to look into the matter and then to pass appropriate orders.

10. I find that the Interim protection is running against the petitioner since a long. The injunction is in respect of three shops only. If the protection is removed, the suit shall become infructuous. Even if its allotment is kept subject to the disposal of the suit, it shall multiply the litigation.

11. This Court is also cautious about the concern of petitioner/Municipal Council about the public interest and public exchequer that has remained merely cumulus for a long period.

12. In view of this, I deem it appropriate to dispose of the Writ Petition as follows:

a. Learned Civil Judge Junior Division, Amalner is requested to make every endeavour to conclude the trial proceedings in the Regular Civil Suit No.42 of 2023 within an outer limit of six months from today on its own merits.

b. The parties undertake to assist the Trial Court for early disposal of the suit.

c. The statement made by Mr. D. P. Palodkar, learned Counsel on behalf of the plaintiffs is taken as undertaking.

d. Writ Petition stands disposed of accordingly.

(AJIT B. KADETHANKAR, J.)

Rushikesh/2026