



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 WRIT PETITION NO. 12440 OF 2024

ASHOK VITHHAL UKIRDE
VERSUS
DASHRATH KACHRU WAGH

...

Mr. Shrimant Mundhe, Advocate for the Petitioner
Mr. A. A. Joshi, Advocate for Respondent

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CORAM : AJIT B. KADETHANKAR, J.
DATE : 12.03.2026

PER COURT :-

. The petitioner filed Regular Civil Suit No. 83 of 2020 in the Court of learned Civil Judge, Senior Division, Paithan, in respect of the suit property, which is an agricultural land admeasuring 74 R situated in Gat No. 189, located at village Adul (Bk), Taluka Paithan, District Aurangabad. The suit is filed against the present respondent.

2. In the said suit, the petitioner filed an application below Exhibit-5 under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, seeking temporary injunction against the respondent. The said application was initially allowed by the learned Civil Court after hearing the parties.

3. The respondent challenged the said injunction order by filing MCA No. 79 of 2020. The said MCA No. 79 of 2020 came to be allowed by the District Court, Aurangabad, vide order dated 01.10.2022. The petitioner took exception to the said order before this Court by filing Writ Petition No. 12558

of 2022. The said writ petition came to be allowed on 16.01.2026, thereby confirming the earlier order dated 12.12.2022 passed by this Court. Vide order dated 12.12.2022, this Court had restored the temporary injunction order passed by the Civil Court, Paithan.

4. On the other hand, the defendant i.e. the present respondent filed Regular Civil Suit No. 394 of 2020 in respect of the said property against the present petitioner and other parties in the Court of learned Civil Judge, Senior Division, Aurangabad. An application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure was also filed by the present respondent in the said suit. The said application was allowed by the learned 6th Joint Civil Judge, Senior Division, Aurangabad.

5. The petitioner challenged the said order in MCA No. 46 of 2023. In the meantime, both the suits were tagged together on an application moved by the respondent. As such, both the suits are being heard by the learned Civil Judge, Senior Division. Although, MCA No. 46 of 2023 filed by the petitioner came to be dismissed, the order passed by the learned Civil Court granting injunction in favour of the respondent is in operation, by virtue of this Court's order in Writ Petition No.12558 of 2022.

6. In view of the above facts, Mr. Shrimant Mundhe, learned counsel for the petitioner, would submit that two injunction orders cannot be permitted to operate simultaneously. He would further submit that the petitioner has secured an injunction in respect of the same suit property against the respondent much earlier than the respondent seeking injunction. He would submit that the injunction granted to the petitioner is dated 03.09.2020, whereas the injunction granted in favour of the respondent is dated 19.01.2023. He would further submit that, in any case, the injunction

granted by the Civil Court, Paithan, is confirmed by this Court vide order dated 16.01.2026, and the said order would prevail over all other orders.

7. Mr. A. A. Joshi, learned counsel for the respondent, would fairly agree with the legal proposition. He would submit that the respondent has satisfied the learned Civil Judge, Senior Division, that the respondent has made out a case under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure. He would further submit that it cannot be overlooked that the petitioner's attempts in the Miscellaneous Civil Appeals have been turned down by the District Court. He would submit that once the matters are clubbed together, the order passed by the learned Civil Judge, Senior Division be maintained during the pendency of the suit, or at least the parties be directed to maintain *status quo* as regards possession.

8. I have heard both the parties extensively. It is not in dispute that all the litigating parties are the same and the suit properties are also the same. The petitioner is the one who had secured injunction on 03.09.2020. The respondent has secured injunction on 19.01.2023.

9. As on today, the injunction granted by the Civil Court, Paithan in the year 2020 stands confirmed by this Court vide initial order dated 12.12.2022 and conclusively on 16.01.2026. Needless to mention that the order passed by this Court would prevail over the injunction orders passed by the learned Civil Judge, Senior Division as well as by the District Court.

10. In my considered view, the writ petition deserves to be allowed.

ORDER

a. The writ petition is allowed.

b. The impugned order dated 19.01.2023 passed by learned 6th Civil Judge, Senior Division, Aurangabad below Exhibit 5 in Regular Civil Suit No.394 of 2020 and which is confirmed by the learned District Judge-11, Aurangabad in Misc. Civil Appeal No.46 of 2023 on 23.08.2024 is quashed and set aside.

c. The injunction granted by the Civil Court on 03.09.2020 and confirmed by this Court vide order dated 16.01.2026 shall remain in operation till the disposal of both the tagged proceedings.

d. It is clarified that nothing observed by any Court in these proceedings shall affect the rights of the parties to make out their respective cases on merits.

e. The writ petition is accordingly disposed of.

f. The concerned Court is requested to make an endeavour to conclude the trial within a period of 15 months from today. Both the learned counsel for the parties shall not protract the litigation and shall not seek unnecessary adjournments.

[AJIT B. KADETHANKAR, J.]