



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

942 WRIT PETITION NO. 627 OF 2026

ASHROBA BHAURAO MORE
VERSUS
BHAGWANRAO RAMRAO DESHMUKH

...

Mr. N. R. Shaikh, Advocate for the Petitioner

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 23rd JANUARY, 2026

P. C. :-

1. The Petitioner impugns order dated 19.12.2025 passed by District Judge, Parbhani and seeks restoration an injunction order which was passed by learned Civil Judge, Senior Division, Parbhani in Regular Civil Suit No. 145 of 2025, whereby Respondent was restrained from obstructing Petitioner's possession over suit property.

2. The Petitioner is Plaintiff in Regular Civil Suit No. 145 of 2025. The suit has been instituted for relief of perpetual injunction, in respect house property No. 47 admeasuring 42 x 23 fts along with open space, situated at Shahapur. It is contention of Plaintiff that he is owner of suit property and Defendant without right or concern is obstructing in peaceful possession. Plaintiff lodged complaint with po lice station regarding illegal acts of

Defendant. The Petitioner/Plaintiff had also filed an application in suit below Exhibit 5 for grant of temporary injunction. The Trial Court after *prima facie* consideration of rival contentions restrained Defendant from causing obstruction to Plaintiff's possession over suit property pending disposal of suit.

3. The aggrieved Defendant filed Misc. Civil Appeal No. 56 of 2025 before District Judge-2, Parbhani, who allowed appeal by setting aside order dated 29.10.2025 passed by Trial Court below Exhibit 5. Eventually rejected the Petitioner's temporary injunction application.

4. Mr. N. R. Shaikh, the learned Advocate appearing for Petitioner would submit that Trial Court had rightly appreciated Gram Panchayat record depicting Petitioner's possession and granted temporary injunction in favour of Plaintiff, however, Appellate Court disturbed said order on erroneous counts. The Gram Panchayat record is sufficient to *prima facie* establish Plaintiff's title and possession over suit property. As such, well reasoned order passed by Trial Court could not have been disturbed.

5. The reasons recorded by learned District Judge show that Plaintiff himself had made a complaint dated 08.05.2025 to Superintendent of Police, alleging that Defendant has encroached over his plot to extent of 17 ft.

from northern side. On 09.05.2025 Plaintiff had filed an application to T.I.L.R. seeking measurement of suit property and removal encroachment of 17 ft made by Defendant.

6. Aforesaid facts clearly demonstrates that Defendant is in possession of disputed 17 ft. area on which Plaintiff claims ownership. In this contingency, Plaintiff ought to have filed suit for removal encroachment and possession.

7. The aforesaid reasoning appears to be consistent with record. Plaintiff's documents demonstrate that he lost possession of 17 ft. area. In this backdrop, relief of temporary injunction cannot be granted in favour of Plaintiff. As rightly observed by learned District Judge, remedy of Plaintiff is to seek possession of encroached area by making necessary amendment in plaint. Plaintiff will have to establish his right/title over so called encroached area in possession of defendant and seek decree of possession.

8. In that view of matter, no jurisdictional error is brought to the notice of this Court to invoke powers under Article 227 of Constitution of India, hence, Writ Petition stands rejected.

(S. G. CHAPALGAONKAR, J.)

ssp