



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15181 OF 2025

Yeola Nagar Parishad Yeola Through CEO

..Petitioner

Versus

Prakash Vishwanath Pangul and Anr

...Respondents

Mr. Girish Agrawal, with Shubham Jangam, for the Petitioner.

Mr. Pandit Kasar, for the Respondents.

Mr Rushabh Vidyarthi, Amicus curiae, present.

CORAM: N. J. JAMADAR, J.

DATE : 8th MAY 2026

ORAL ORDER:

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to a judgment and order dated 9th May 2025 passed by the learned District Judge, Yeola, Nashik, whereby the Appeal preferred by the Petitioner-Yeola Municipal Council against an order of temporary injunction passed by the Trial Court dated 22nd January 2024, thereby restraining the Petitioner or any other person on its behalf from dispossessing the Plaintiffs and causing obstruction to their peaceful possession over the suit property without acquiring the disputed reserved DP Road by following due procedure of law till the decision of the Suit, came to be dismissed.

3. Mr. Agrawal, the learned Counsel for the Petitioner, submitted that the Respondent-Plaintiff has instituted the suit for injunction simplicitor. In fact, a notice was given by the Petitioner-Council for the removal of the illegal structure erected by the Plaintiff under Section 52 read with Section 152 of the Maharashtra Regional And Town Planning Act, 1966 and Section 189 of the Maharashtra Municipal Councils, Nagar Panchayats And Industrial Townships Act, 1965.

4. Mr. Kasar, the learned Counsel for the Respondent countered the submissions of Mr. Agrawal. Mr. Kasar invites the attention of the Court to the averments in the Plaint, which indicate that since the Petitioner-Council threatened to dispossess the Plaintiff and lay a new road over the property which is owned by the Plaintiffs, the suit for simplicitor injunction was instituted.

5. Evidently, the notice, which was pressed into service by Mr. Agrawal, seems to have been issued on 18th December 2023; the very day the Plaintiff had instituted the suit. This fact, *prima facie*, lends credence to the claim of the Plaintiff that the Petitioner-Council threatened to take action without following due process of law.

6. In the aforesaid view of the matter, if it is contention of the Petitioner-Council that the construction which the Plaintiffs have erected is unauthorized and illegal, the Council is authorized in law to take action for the removal of such unauthorized and illegal

construction. It is trite law that the mere fact that the construction is erected on the property which is owned by person erecting the same does not insulate such structure from the action by the Planning Authority for erection of structure without obtaining the requisite permission of the Planning Authority.

7. Mr. Agrawal further submitted that the Plaintiffs had surrendered the suit property in favour of Municipal Council by swearing an Affidavit. A copy of the Affidavit, purportedly affirmed on 1st August 1986, was tendered for the perusal of the Court.

8. Mr. Kasar, the learned Counsel for the Respondents-Plaintiffs, controverted the aforesaid position.

9. Incontrovertibly, the Affidavit now sought to be tendered was not produced before the Trial Court. The Courts below did not have the benefit of the said Affidavit while determining the issue of entitlement of the Plaintiffs for the temporary injunction. It would be, therefore, inappropriate for this Court to take into account the said affidavit in this proceeding and at this stage.

10. The Petitioner-Council would be at liberty to take appropriate steps before the Trial Court and workout its remedies as available in law.

11. In the aforesaid view of the matter, the injunction order passed by the trial Court deserves to be modified only to the extent that the

Petitioner-Council is at liberty to take action in accordance with law pursuant to the notice dated 18 December 2023, provided it has been duly served on the Plaintiffs.

12. Hence, the Writ Petition stands disposed with the following order :

ORDER

The order of temporary injunction passed by the trial Court stands affirmed, subject to the following modification :

The Petitioner-Council is at liberty to take action in accordance with law pursuant to the notice dated 18 December 2023, provided it has been duly served on the Plaintiffs.

13. Since none had appeared for the Respondents-Plaintiffs, by an order dated 1st December 2025, this Court had appointed Mr. Vidyarthi, the learned Counsel to assist the Court. Even after Mr. Kasar appeared for the Respondents, Mr. Vidyarthi has ably assisted the Court.

[N. J. JAMADAR, J.]