



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 7294 OF 2025

Lalchand Mohan Upwanshi, Aged 52 years, Occ: Agriculturist,
R/o Chandnitola, Tah. and District Gondia.

PETITIONER

VERSUS

1. District Collector, Gondia, Tah. & Dist. Gondia.
2. The Tahsildar, Gondia, Tah. and Dist. Gondia.
3. The Sarpanch, Gram Panchayat Nagra,
Tah. and District Gondia.
4. The Gram Sevak, Gram Panchayat Nagra,
Tah. & District Gondia.

RESPONDENTS

Shri N.R. Tekade, counsel for the petitioner.
Smt. K.H. Bhongade, Assistant Government Pleader for the respondent nos.1 and 2.
Shri A.N. Vastani, counsel for the respondent nos.3 and 4.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : JANUARY 21, 2026

ORAL JUDGMENT

RULE. Rule is made returnable forthwith and heard finally with consent of the learned counsel for the parties.

2. By this petition, the petitioner challenges the concurrent findings recorded by the trial Court as well as the appellate Court rejecting the application for grant of temporary injunction, at Exhibit 5 in the suit.

3. The petitioner is the original plaitniff, who has filed Regular Civil Suit No.163 of 2024 for permanent injunction to restrain the defendants from evicting the plaintiff from the suit property which is described in the plaint. Alongwith the plaint, the plaintiff filed an application at Exhibit 5

under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908 (for short, 'the Code') which came to be rejected by order dated 16.08.2024. The appeal filed by the plaintiff Under Order XLIII Rule 1(r) of the Code also came to be rejected by the judgment and order dated 12.11.2025. The petitioner has challenged both these orders by way of instant petition.

4. It is the petitioner's contention that he is occupying a plot of land bearing Gat no.74 on which he is running a timber mart and in view of the threat to disturbance to his possession, he filed the suit. The petitioner has claimed that the previous body of the Gram Panchayat had given a no objection to him on 16.09.2019 to run the timber mart on the suit property and on that basis the temporary injunction was claimed. He submitted that both the Courts below failed to consider the plaintiff's right over the said property.

5. The learned Assistant Government Pleader for the respondent nos.1 and 2 and the learned counsel for the respondent nos.3 and 4 have opposed the petition and submitted that both the Courts have rightly passed the impugned orders and the concurrent findings need no interference.

6. While considering the controversy, it has to be seen that both the Courts have concurrently found that the resolution of the Gram Panchayat on which the petitioner has placed reliance relates to the property which stands in the name of mother of plaintiff viz. Harkanta Upwanshi and it is

not about the suit property. The resolution dated 16.09.2019 does not relate to the suit property and it is with respect to Property no.443. The property no.443 belongs to one Bharatram Nathu Maskare. As such, the very basis of the plaintiff's contention was found to be unfounded.

7. Both the Courts have categorically observed that although there is a timber mart and cattle shed on the said property, however the plaintiff has not produced any document on record to show that he is in possession of the suit property on the basis of any right. Both the Courts have also recorded that the suit property is Government land and in view of Section 53 of the Maharashtra Village Panchayats Act, 1959, the Officials of Panchayat and Government officials are empowered to remove the encroachment over the said property. Therefore, considering the fact that the petitioner-plaintiff has encroached over the Government land, both the Courts have refused to grant the temporary injunction.

8. It has to be noted that the defendants in the suit i.e. the Government officials have categorically stated that the suit land which is a Government land is required for construction of 'Mahila Bachatgat Bhavan' for public utility and therefore the notice for vacating the suit property was given to the plaintiff. A perusal of the impugned order shows that both the Courts have given due consideration to the factual aspects. The reliance placed by the petitioner on the 'no objection certificate' of the Gram Panchayat dated 16.09.2019 was misplaced since the same pertains to Property no.443. As such, the very foundation of the

plaintiff to claim temporary injunction is without any basis. The trial Court as well as the appellate Court have passed the impugned orders by exercising discretion to refuse temporary injunction. No perversity is seen with the impugned orders and hence no interference is warranted under Article 227 of the Constitution of India.

9. In view of above, the writ petition fails and is dismissed with no order as to costs. Rule stands discharged.

(PRAFULLA S. KHUBALKAR, J.)