



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 8052 OF 2025

Ibrahim Ahemad Shaha,
Proprietor of Raza Online and
Cold-drink and Raza Auto-deals,
Age : 44 Years, Occu. : Business,
R/o. In front of R.T.O. Office,
Chandrapur, Tah. & Dist. Chandrapur.

.... Petitioner

VERSUS

1. Rajni Shankar Awale,
[After Marriage Name – Rajni Sanjay Bankar],
Age : 40 Years, Occu. : Farmer,
R/o. Yashwant Nagar, Padoli,
Tah. & Dist. Chandrapur.

2. Sanjay Bankar,
Age : 45 Years, Occu. : Farmer,
R/o. Yashwant Nagar, Padoli,
Tah. & Dist. Chandrapur.

.... Respondents

....
Advocate for Petitioners : Mr. S.R. Kumbhalkar
Advocate for Respondents : Mr. A.M. Chandekar
....

CORAM : PRAFULLA S. KHUBALKAR, J.

Dated : 28th APRIL 2026

JUDGMENT :

1. Heard.

2. **Rule.** Rule is made returnable forthwith and by consent of learned Advocates appearing for the parties, the petition is taken up for final disposal.

3. By this petition, the petitioner has challenged an order dated 27.11.2025, at Exhibit 27, passed by Ad-hoc District Judge-1, Chandrapur, in Misc. Civil Appeal No.49 of 2024 and order dated 11.07.2024, at Exhibit 05, passed by 5th Joint Civil Judge Junior Division, Chandrapur, in R.C.S. No.47 of 2024, rejecting the application for temporary injunction.

4. The petitioner is the original plaintiff, who has filed a suit bearing R.C.S. No.47 of 2024, for declaration and permanent injunction based on an oral agreement. The plaintiff also filed a separate application for temporary injunction under Order 39 Rule 1 and 2 of the Code of Civil Procedure, 1908 (for short, "C.P.C."), which came to be rejected by order dated 11.07.2024 and an appeal under Order 43 Rule i(r) of C.P.C. against the said order, filed by the plaintiff, also came to be rejected by judgment and order dated 27.11.2025. Feeling aggrieved by the concurrent orders, the petitioner has filed the instant petition.

5. The primary contention of the petitioner is that the petitioner is the tenant and prospective purchaser of the suit property, which is in his possession and by apprehending disturbance to his possession, he filed the suit. It is the plaintiff's case that on the basis of an oral agreement, he is entitled to protect his possession. Learned Advocate for the petitioner, therefore, submitted that both the courts failed to consider the documents showing the plaintiff's possession which made him entitled for grant of temporary injunction. He also submitted that the courts below have wrongly believed on the contentions of the defendants (respondents herein) based on the police complaint dated 03.06.2024, which is lodged by the defendants, on that basis, the courts below have drawn inferences in favour of the defendants. He, therefore, submitted that the courts below have erred in considering the *prima facie* case, which was established in favour of the plaintiff and further, in view of the other factors for grant of temporary injunction, the plaintiff was entitled for the relief of temporary injunction.

6. While opposing the petition, learned Advocate for the respondents pointed out that the trial court as well as appellate court has exercised the discretion in favour of the defendants by refusing the temporary injunction application. He submitted that the trial

court has rightly observed that the plaintiff has suppressed material facts and become disentitled for grant of any discretionary reliefs. By pointing out the reasons recorded by both the courts below, he submitted that the defendants have established their possession and the courts below have rightly rejected the application for temporary injunction.

7. While considering the controversy, it has to be noted that the defendants (respondents herein) are the owners of the suit property. The plaintiff claims his rights on some oral agreement. It has to be noted that although the trial court as well as appellate court has considered and relied upon the complaint dated 03.06.2024, which was lodged by the defendants, the petitioner has not even placed on record the said document of police complaint along with the petition. The document was made available during the course of hearing only. A perusal of the complaint dated 03.06.2024 reveals that the defendants' possession was tried to be disturbed and therefore, the complaint was lodged by them. After considering all the documents placed before it, the trial court has refused to exercise the discretion in favour of the plaintiff and rejected the application for temporary injunction.

8. A perusal of the impugned order passed by the trial court reveals that due consideration is given to all the contentions of the parties and by recording appropriate reasons, the temporary injunction application is rejected. Even the appellate court has refused to interfere with the discretionary order passed by the trial court and by recording elaborate reasons, has dismissed the appeal filed by the plaintiff.

9. Pertinent to note, both the courts have categorically observed that, *prima facie*, the defendants are in possession of the suit property and the plaintiff has not even disclosed the said fact in his application and thus, failed to approach the court with clean hands. Thus, the reasons recorded by the trial court as well as appellate court do not show any perversity or illegality warranting interference under Article 227 of the Constitution of India.

10. The position of law is well settled that the discretionary orders passed by the courts below need not be ordinarily interfered with unless there is a gross illegality or perversity depicting miscarriage of justice. In the instant case, the trial court as well as appellate court has refused to exercise the discretion in favour of the plaintiff (petitioner herein) and even before this Court, the petitioner

has failed to make out any case for seeking temporary injunction. As such, no interference is warranted with the impugned orders under Article 227 of the Constitution of India and resultantly, the petition fails. The writ petition is, therefore, dismissed with no order as to costs. Rule stands discharged.

[PRAFULLA S. KHUBALKAR]
JUDGE

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