

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

Writ Petition No.3272 of 2015

(Shri Shankar s/o Arjun Salve and others v. Shri Gopal Singh Indrapal Singh Rathod and others)

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's order

Court's or Judge's orders

Shri A.H. Lohiya, Advocate for Petitioners.
Shri R.D. Dharmadhikari, Advocate for Respondents.

Coram : R.K. Deshpande, J.

Date : 27th October, 2015

Shri Dharmadhikari, the learned counsel appearing for the respondents, submits that the application under Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure has already been decided by the Trial Court and hence the application for rejection of temporary injunction at Exhibit 25 filed by the defendants was not maintainable. According to him, either there should have been an appeal filed under Order XLIII, Rule 1(r) of the Code or an application for review. The application at Exhibit 25 does not fall in any of these two categories. The petition can, therefore, be disposed of by granting liberty to the petitioners to adopt such appropriate course of action as is permissible in law. The Trial Court has already rejected the application at Exhibit 25 and another similar application at Exhibit 107 by the impugned order dated 29-1-2015.

Thus, no interference is called for in the order impugned. The petition is dismissed. Needless to say that it is always open for the petitioners to adopt appropriate course of action, and the dismissal of

this petition shall not come in the way of the parties.

Judge.

Lanjewar