

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

WRIT PETITION NO. 5310 OF 2013

(TAVINDERSINGH MOHINDRASINGH RAWAL & ANR...VS..SMT. DURGA BABANSINGH SHANDILYA
& OTH.)

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

Court's or Judge's orders

Mr. A.S.Mehadia, Advocate for Petitioners.
Mr R.S.Kurekar, Advocate for Respondent Nos. 8(A) to 8(D)

CORAM : R.K.DESHPANDE, J.
DATED : APRIL 28, 2015.

Heard learned counsels appearing for the parties.

2. Neither the application under Section 8 of the Bombay Court Fees Act nor the application under Section 9A of the Code of Civil Procedure specify that the application for grant of injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure has been filed or it is pending for adjudication. The order impugned also does not make reference of filing any such application.

3. In view of this, the trial Court has committed an error in entertaining such application under Section 9A of the Code of Civil Procedure. The order is without jurisdiction. Similarly there was no occasion for the trial Court to proceed to decide the question under Section 8 of the Bombay Court Fees Act and the application should have been dismissed at the very threshold. The trial Court is at liberty to frame appropriate issues, including the issue regarding court fees. If any application under Order VII Rule 11 of the Code of Civil Procedure is filed the trial Court may proceed to decide the same in accordance with law.

4. The impugned order dated 23.09.2013 does not survive for the reason that the application under Order 9A of the Code of Civil Procedure and application under Section 8 of the Bombay Court Fees Act are dismissed.

The writ petition is **dismissed**. No costs.

JUDGE

RRaut..