

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION**

WRIT PETITION NO.3719 OF 2016

Shri. Prakash Vishwanath Varpe

... Petitioner

Versus

Indian Railway Corporation, Solapur & Anr. ...Respondents

....

Mr. Ajay Joshi for the petitioner.

None for the respondents.

...

CORAM : N. M. Jamdar J.

Tuesday 23 AUGUST, 2016

P. C.

. The petitioner challenges the concurrent orders passed by the learned Civil Judge, Junior Division Pandharpur and the learned District Judge Pandharpur refusing to grant an order of temporary injunction in favour of the petitioner.

2. The petitioner has filed a Regular Civil Suit for restraining the respondents from erecting fence around the suit property and to restrain the respondents from obstructing the possession of the petitioner in the suit property. Both the courts have assessed the material on record and various decisions of the Apex court which were relied upon by the parties. The learned District Forum found that no case was made out for grant of any temporary injunction

and if the work of compound wall is stopped then the open ground will not be available to the general public and as there might be encroachments, which will cause irreparable loss to the respondents. Therefore, while declining the grant of injunction both the courts have not only considered the prima facie case and balance of convenience, but the public interest as well.

3. In the circumstances, the discretion used by both the courts in declining the grant of injunction cannot be stated to be perverse.

4. The writ petition is rejected.

(N. M. Jamdar, J.)