

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition No. 4872 OF 1999

Shri Uttam Vishwanath Phad
And Ors

...Petitioners

Versus

Upayukta, Nashik Municipal Corporation

...Respondent

....

None for the Petitioners.

Mr. Akshay Kapadia i/b. J. Shekhar & Co. for the Respondent.

....

CORAM : R. G. KETKAR, J.

DATE : 29th MAY, 2017

JUDGMENT:

1. None for the petitioners. Mr.Akshay Kapadia, learned counsel for the respondent.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as the 'plaintiffs', have challenged the judgment and order dated 2.12.1997 passed by the learned Civil Judge, Senior Division, Nashik below Exhibit-5 in R.C.S. No.415/1997 as also the judgment and order dated 22.3.1999 passed by the learned 2nd Additional District Judge, Nashik in Civil Misc. Application No.296/1997. By these orders, the Courts below rejected the application filed by the plaintiffs under order XXXIX Rules 1 and 2 of C.P.C. for temporary injunction

restraining the defendant Corporation from demolishing the suit structure of the plaintiffs.

3. On 2.9.1999 upon hearing the learned Counsel for the petitioners, this Court issued Rule and directed the parties to maintain status quo in respect of the suit structure. As this Court has directed the parties to maintain status quo in respect of the suit structure and said interim order is operating since 1999, in my opinion, ends of justice would be served by directing the learned trial Judge to dispose of the suit being R.C.S. No.415/1997 within six months from receipt of the authenticated copy of this order, if the suit is not already disposed of. In the meantime, interim order directing the parties to maintain status quo in respect of the suit structure shall remain in force. Petition is accordingly disposed of. Rule is made absolute in the above terms with no order as to costs. It is made clear that I have not examined the merits of the case and having regard to the fact that interim order is operating since 1999, I have continued the interim order. All contentions of the parties on merits are expressly kept open. Order accordingly.

(R. G. KETKAR, J.)