

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

WRIT PETITION NO. 12041 OF 2015

Uday Balkrishna Mali

...Petitioner

Versus

Nandkumar Balkrishna Mali & Anr.

...Respondents

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Mr. Bhushan Walimbe i/b. Mr. Shashank P. Borade for the Petitioner.
Mr. Nikhil Patil i/b. Mr. Shivaji A. Masal for Respondent Nos. 1 and 2.

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CORAM: Mrs. MRIDULA BHATKAR, J.
DATED: APRIL 28, 2017

P.C. :

1. Rule. Rule made returnable forthwith. By consent, the Petition is heard finally and disposed of at the stage of admission.

2. This petition is directed against the order dated 20.07.2015 passed by the learned Ad-hoc District Judge-1, Sangli in Misc.Civil Appeal No. 44 of 2015 thereby partly allowed the appeal filed by the petitioner. The plaintiffs i.e. the respondents had filed the Suit for simplicitor injunction against the petitioner/defendant. The petitioner and the respondents are the real brothers. They have adjacent plots and houses. The learned Ad-hoc Judge, Sangli has given permission to the appellant/ petitioner to make construction upto the ground floor, so that

it is available for his residence, but has directed not to construct further. There is an issue of leaving sufficient marginal space between two houses. However, as he has constructed the ground floor. I am of the view that at this stage, there would not be any issue of leaving the marginal space. It is further submitted that the construction is going as per approved plan of Sangli Municipal Corporation.

3. The learned counsel for the petitioner makes a statement that he be allowed to construct as per approved plan of Sangli Municipal Corporation and that may be subject to the outcome of the Suit and the petitioner shall not claim equities.

4. Considering the dispute between the parties and the order passed by the learned Ad-hoc District Judge, Sangli, the statement made by the learned counsel for the petitioner is accepted. The petitioner is allowed to construct further as per approved plan of Sangli Municipal Corporation. The learned trial Judge to expedite the Suit within one year.

5. In view thereof, Writ Petition is disposed off.

(MRIDULA BHATKAR, J.)