

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

CIVIL APPLICATION (W) NO. 1272 OF 2017

IN

WRIT PETITION NO.767 OF 2015.

(HARISHCHANDRA S/O NATTHUJI KARAMORE ..VS.. BHAURAO S/O RAMJI TRIKUL AND OTHERS)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : 30th JUNE , 2017.

By this application, the original petitioner, in fact, seeks modification of the judgment passed by this Court in Writ Petition No.767 of 2015 on 21st July, 2015.

In the Writ Petition, order passed by the trial Court rejecting the application (Exh.28) filed by the present applicant/petitioner seeking permission to erect fencing on the northern side of his field, was challenged. After considering the material on record, the Writ Petition was disposed permitting the petitioner to erect fencing, however, the petitioner was directed to file an affidavit before the trial Court stating that while erecting the fencing, and even subsequently the petitioner shall not obstruct the way granted to the respondent Nos.1 to 4 in the petition, by the order passed in the proceedings under Section 143 of the Maharashtra Land Revenue Code. The petitioner was directed to file this affidavit as in the proceedings filed by the

respondent Nos.1 to 4 under Section 143 of the Maharashtra Land Revenue Code against the petitioner, the Tahsildar had upheld the claim of the respondent Nos.1 to 4 for the approach way.

The prayer made by the petitioner in this application for modification of the judgment cannot be granted as the judgment is consciously passed keeping in view the order passed by the Tahsildar in proceedings under Section 143 of the Maharashtra Land Revenue Code.

However, it is clarified that the directions given by this Court by the judgment given in Writ Petition No.767 of 2015 on 21st July, 2015 will be operative till the decision of Regular Civil Suit No.161 of 2013 and the observations made in the judgment will not affect adjudication of the issues which arise for consideration in the Regular Civil Suit No.161 of 2013.

With the above observations, the application is disposed of.

JUDGE

PBP