

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

WRIT PETITION NO. 3112 OF 2018

Gramsevak, Gram Panchayat,
Ahmednagar and another.

Petitioners.

Versus

State of Maharashtra and others.

Respondents.

Mr. A.N. Nagargoje, Advocate for the petitioners.

Mr. K.N. Lokhande, A.G.P. for the State.

CORAM : **S.V. GANGAPURWALA &
SUNIL K. KOTWAL, JJ.**

Dated : **2nd August , 2018.**

FINAL ORDER :-

. Mr. Nagargoje, learned Counsel for the petitioners submits that the proceedings under Order XXXIX Rule 2A of the Code of Civil Procedure ("C.P.C.") are initiated by respondent No.3, the same are not maintainable.

2. If the prayers in the application filed by the petitioner under Order XXXIX Rule 2A of the C.P.C. are perused, then the same cannot come within the ambit of the application under Order

XXXIX Rule 2A of the C.P.C. Even the structure was removed prior to passing of the order of injunction. The record to that effect is there.

3. The learned Additional Government Pleader appears for respondent Nos.1 and 2.

4. The petitioner is only issued with the notice under Order XXXIX 39 Rule 2A of C.P.C. The petitioner will have every opportunity to file his say to the application and raise all possible defences available to him. The defences raised by the petitioner are required to be considered by the Court. The petitioner may file his say to the application under Order XXXIX Rule 2A of the C.P.C.

5. In view of that, we are not inclined to entertain the present Writ Petition.

6. Writ Petition is disposed of. All the contents of respective parties are kept open. No costs.

(SUNIL K. KOTWAL)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

vdd/