

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR
CIVIL APPLICATION NO. 449 OF 2018
IN SECOND APPEAL NO.427/2011

Prabhakar s/o Tukaram Gajbhiye and others Vs. Sukhdeo Dere and others

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

Court's or Judge's orders.

Shri S.A. Mohta, Advocate for Applicants/appellants.
Shri C.B. Dharmadhikari, Advocate for Respondent No.1.
Shri R.O. Chhabra, Advocate for Non-applicant/Respondent No.2.

CORAM: A.S. CHANDURKAR, J.

DATE: 21-06-2018

The respondent no.1 has moved this civil application in which it is prayed that the appellants be restrained from making any construction at the suit property by demolishing the existing structure. It has been stated that as per the information received by the respondent no.1, the appellants have demolished the existing construction and are seeking to erect a new construction. Photographs to that effect are placed on record.

Reply has been filed opposing the aforesaid application. As per affidavit dated 02/05/2018 filed by Smt. Lata R. Gajbhiye, it has been stated that the appellants are not intending to carry out any new construction and they only intend to carry out repairs by constructing a concrete slab so as to prevent any leakage in the premises.

Considering the fact that the appellants are in

possession and they intend to merely carry out repairs so as to enjoy the suit property effectively they can be permitted to do so by clarifying the nature of construction.

Accordingly, the statements made in the affidavit dated 02/05/2018 of Smt. Lata R. Gajbhiye are accepted. On those statements, the appellants are permitted to repair the suit property so as to construct a concrete slab to prevent leakage. This act of construction would be subject to final outcome of the Second Appeal. The appellants shall not claim any equity in that regard.

Civil Application is disposed of in the aforesaid terms.

JUDGE

RKN