

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5821 OF 2015

Shri. Machindra Bhau Patil

.....Petitioner

V/s.

Shri. Atmaram Damji Bhopi
and Ors.

....Respondents

Mr. K.S. Deval i/by. Mr. Jayesh M. Joshi, Advocate for the
petitioner.

None for the respondent.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 12th June, 2019.

P.C. :

1. Heard learned Counsel for the petitioner.
2. None appears for the respondent, original
plaintiff. Even on the last occasion, nobody represented
the respondent.
3. That by order dated 4th April, 2015 the Principal
District Judge, Raigad restrained the defendant from

making any further construction on the land Survey No.10A. Aggrieved by it, the defendant has preferred this Writ Petition under Article 227 of the Constitution of India.

4. The respondent instituted the suit for perpetual injunction. The learned trial Judge declined the relief in the nature of temporary injunction. However, the learned District Judge granted the said relief in Miscellaneous Appeal preferred by the respondent-plaintiffs.

5. The learned Counsel for the petitioner has invited my attention to the order of this Court dated 8th August, 2016 whereby the petitioner was directed to place on record the particulars/status of construction made by him on the suit land. In response thereto, the petitioner has filed additional affidavit and placed on record, the photographs at Exhibit-1 collectively.

6. The learned counsel for the petitioner has relied on photographs to submit that, defendant is in possession of the property/structure constructed on land,

Survey No.10A and he further submits that paltry work like plastering etc. is left out. He therefore submits that petitioner may be permitted to complete the plastering work.

7. That the order impugned is in force since April, 2015, I am not inclined to interfere with the order. However, taking into consideration the facts of the case and particularly the volume of construction made on Survey No.10A, the petitioner may apply to the trial Court for such reliefs as he deems appropriate in respect of the house constructed by him on Survey No.10A. With these observations, the Writ Petition is disposed of.

(SANDEEP K. SHINDE, J)