

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

WRIT PETITION NO. 3130 OF 2016

Nitin s/o Baliram Kamale & another
VS.
Sandip s/o Gajanan Pise and others

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

Court's or Judge's

Shri. V. D. Muley, counsel for petitioners.
Shri. A. M. Ghare & Shri. B. M. Kharkate counsel for
respondents No. 1 to 3.
Shri. Rahul Tajne, counsel for respondent No.5

CORAM : MANISH PITALE J

DATED : 06.11.2019

CIVIL APPLICATION NO.463 OF 2019

This is an application filed on behalf of the petitioner seeking amendment of the writ petition to place on record report of the Taluka Inspector Land Records (TILR), which has been prepared in pursuance of appointment of the TILR as Commissioner for measurement of the properties in question. A ground of challenge is sought to be raised on the basis of the said report and permission is sought to place on record copy of the report and map prepared by the TILR. Considering the fact that the TILR was appointed as Commissioner during the pendency of the present writ petition and this Court

also adjourned this writ petition on few occasions awaiting report of TILR, it would be in the interest of justice that the amendment application is allowed. Accordingly, the application is allowed. The amendment be carried out forthwith.

WRIT PETITION NO. 3130 OF 2016

By this writ petition the petitioners (original plaintiffs) have challenged concurrent orders passed by the two Courts below on an application for temporary injunction filed on their behalf at Exh.5.

2. During the pendency of the present writ petition report of TILR has come on record along with map prepared by the TILR. The said document and report were not before the two Courts below when the impugned orders were passed. In this situation, by the consent of rival parties, the orders passed by the two Courts below are set aside and the matter is remanded back to the Trial Court for decision afresh on Exh.5 i.e. application for temporary injunction moved by the petitioner.

3. The Trial Court shall taken into consideration the aforesaid report and map prepared by the TILR and then consider the rival contentions afresh. This Court is refraining from making any observation as regards the TILR report and the parties would be at liberty to make such submission as

advised, before the Trial Court on the question of grant of temporary injunction in view of the fresh material that has come on record. The Trial Court shall decide the aforesaid application at Exh.5 afresh.

4. It is an admitted position that the order of status quo dated 27.05.2016 passed by this Court has operated during the pendency of the present writ petition. Therefore, in the interest of justice, the said order of status quo is continued till the Trial Court decides the aforesaid application at Exh.5 afresh.

5. The Trial Court shall decide the said application within a period of four weeks from today. The continuation of the order of status quo by this Court shall not influence Trial Court in deciding application (Exh.5).

6. Writ Petition is disposed of.

JUDGE