

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

WRIT PETITION NO.5439 OF 2017

(Ankush Shikshan Sanstha, Nagpur ...VS.. Chaya W/o Harpal Ikhar)

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

Court's or Judge's orders

Shri V.K. Gulhane, Advocate for Petitioner.
Shri I.J. Damle, Advocate for respondent.

CORAM : Z.A.HAQ, J.

DATED : AUGUST 09, 2019.

Heard.

This petition is filed by the original plaintiff to challenge the order passed by the trial Court by which the application (Exhibit 5) filed by him praying for temporary injunction restraining the defendant from undertaking construction over the suit property is rejected. The order passed by the District Court dismissing the appeal filed by the petitioner under Order XLIII Rule 1(r) of the Code of Civil Procedure is also challenged.

Learned Advocate for the petitioner submitted that during the pendency of this petition, the defendant has undertaken some construction, compound wall is erected and the plaintiff has amended the plaint to bring on record the subsequent developments. Considering the submission made by the learned Advocate for the petitioner/ plaintiff about the subsequent developments, in my view, the claim of the petitioner in this petition is rendered infructuous.

It is clarified that the construction undertaken by the defendant shall be subject to further orders, which may be passed by the trial Court in the civil suit and the defendant shall not claim any equity.

With the above observations, the writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE

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