

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

WRIT PETITION NO. 5440 OF 2017

(ANKUSH SHIKSHAN SANSTHA...VS.. ANANT PANDURANG UKEY.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : AUGUST 19, 2019.

None for the petitioner. None for the respondent.

The petitioner/original plaintiff has filed this petition, being aggrieved by the order passed by the subordinate Courts concurrently rejecting its claim for temporary injunction restraining the defendant from undertaking construction over the suit property and disturbing his possession over the suit property. I find that the learned trial Judge has examined all the relevant aspects. Similarly, the learned District Judge has also independently examined all the relevant facts and has summed up his conclusions in paragraph No.11 of the order, as follows:

“11. Considering all these aspects, the appellant is not coming with clean hands and suppressing the material facts from the pleadings, so also there is no identification of the suit property alleged to be encroached by the respondent. Furthermore, with due permission of the concerned authority the respondent is constructing in her plot. Therefore, balance of convenience and irreparable loss cannot be in favour of the appellant. In absence of any ground, it cannot be said that the needle of balance of convenience tilts in favour of the appellant. The appellant has not made out case for temporary injunction. The learned trial Court

had appreciated the facts of the present matter in proper prospective and there is nothing in the order passed by the learned trial Court to interfere with the impugned order. Therefore, I answer point nos.1 to 4 accordingly. In answer to point No.5, I proceed to pass following order.”

The petitioner has not been able to point out any illegality or infirmity or error of jurisdiction which necessitates interference with the impugned order in the extraordinary jurisdiction.

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

JUDGE

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