

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

WRIT PETITION NO.6549 OF 2019

Chandan s/o Shivchand Pardhi and another.

Vs.

Malindkumar s/o Narayanrao Kulkarni.

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

Court's or Judge's

Shri A. S. Sonare, Advocate for petitioners.

CORAM : A. S. CHANDURKAR, J.

DATE : SEPTEMBER 30, 2019.

Challenge in the present writ petition is to the interlocutory order passed by the Appellate Court on 06.12.2016 in Regular Civil Appeal No.368 of 2016. By that order the petitioners have been restrained from creating any third party rights in the suit property which is survey no.4 P.H.No.59, admeasuring 2 Hectors 7 R. According to the petitioners they had filed Regular Civil Suit No.54 of 2010 seeking declaration and permanent injunction in respect of the same suit property and that suit was decreed on 27.02.2017. It is on that premise that the impugned order has been challenged.

2. After hearing learned counsel for the petitioner it is seen that the Appellate Court has passed the impugned order on 06.12.2016. The petitioners seek to rely upon subsequent judgment dated 27.02.2017 passed in Regular Civil Suit No.54 of 2010. Considering the passage of time from passing of the impugned order, I am not inclined to entertain the present writ petition. It is further open for the petitioners to apply to the Appellate Court for modifying / vacating the order of temporary injunction under provision of Order 39 Rule 4 of the Code of Civil Procedure, 1908. Keeping the grounds raised open, Writ Petition is disposed of.

JUDGE

Sarkate