

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

WRIT PETITION NO.7593/2019

VAISHALI SANJAY PESHNE
VS.
SAU.PRITI W/O ____ TABANE AND ANOTHER

Office notes Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri H.R.Gadhia, Advocate for petitioner.

CORAM : A.S.CHANDURKAR, J.

DATED : NOVEMBER 19, 2019.

Heard Shri H.R.Gadhia, learned counsel for the petitioner and perused the impugned order.

The suit filed by the plaintiff-petitioner for perpetual injunction as well as for possession of encroached area was partly decreed. The defendants were restrained by an order of perpetual injunction from disturbing the possession of the petitioner and liberty was granted to the plaintiff to approach the appropriate Authority to ascertain the area of the encroached portion. The relief of grant of possession was refused. The defendants being aggrieved by the decree to the extent the relief of perpetual injunction was granted, filed an appeal. Court fees were accordingly paid by valuing the appeal to that extent. The original plaintiff raised an objection to the valuation of the appeal and the appellate Court has held that the appeal was correctly valued since only the decree for perpetual injunction was under challenge.

It is seen that the memo of appeal has been properly valued since the defendants were aggrieved only by the decree

granting perpetual injunction. As per the provisions of Schedule I Clause 4 of the Maharashtra Court Fees Act, 1959 the valuation as made is found to be correct. Hence, there is no case made out to interfere in writ jurisdiction. The writ petition is therefore dismissed. No costs.

JUDGE

Andurkar.