

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CIVIL APPLICATION (CAO) NO. 1714/2019
IN
SECOND APPEAL (SA) NO. 535/2018

[Shri Ramkisan S/o Prabhatilal Agrawal Vs. Shri Raishabh S/o Ramkisan Agrawal & Ors.]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's
order

Court's or Judge's Order

Ms. Gayatri Diwe, Advocate h/f Shri PR. Agrawal, Advocate for
appellant
Shri R.D. Zode, Advocate for respondent

CORAM : M. G. GIRATKAR, J.

DATE : 30/01/2020

Heard Ms. Gayatri Diwe, learned Advocate
holding for Shri PR. Agrawal, learned Advocate for
appellant and Shri R.D. Zode, learned Advocate for
respondent.

Following order was passed on 04.10.2019 :

*“This application is taken out for
modification of order dated 28.03.2019.*

*The modification sought is that the
respondents be permitted to construct a compound
wall to safeguard the material and the wooden logs
lying on the plot.*

*Shri PR. Agrawal, the learned counsel
for the appellant is strenuously objecting to the
modification. Shri PR. Agrawal, learned counsel for
appellant would invite my attention to the affidavit*

in reply filed on behalf of the appellant to contend that there is no valuable article lying on the plot and every article of any value or worth is already disposed of and/ or removed.

I do not see any prejudice if a compound wall is constructed. I may only clarify that if the appellant ultimately succeeds, the respondents shall not claim any equity on the basis of the compound wall constructed. To the contrary, the appellant shall be entitled to possession of the suit plot along with any improvement made there to including the compound wall which may be constructed by the respondents.

The order dated 20.03.2019 is accordingly modified and the respondents are permitted to construct a compound wall to protect the suit plot.

The respondents shall file on record an affidavit giving the details of the wooden logs and any other article of worth which may be part of the debris of the construction demolished during the pendency of this appeal. The affidavit be filed on record within two weeks”.

As per the order dated 04.10.2019, the wall compound is constructed to protect the suit plot. As per the direction of this Court, affidavit is filed on 09.10.2019. Photographs are also filed on record. Hence, as per the submission of learned Advocate for both parties, nothing

survives in the application, accordingly it is disposed of.

JUDGE

C.R. Khobragade