

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

WRIT PETITION NO.7070 OF 2016

(Shri Sharadprasad s/o Ramcharan Gupta and another Vs. Municipal Council of
 Umrer, thr. Chief Officer, Tah. Umrer, Dist. Nagpur and others)

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

Court's or Judge's orders.

 None for Petitioner.
 Mrs. B.P. Maldhure, Advocate for Respondent No.1.
 Mrs. K.R. Deshpande, AGP for Respondent No.3.

CORAM: RAVINDRA V. GHUGE, J.

DATE: 4th JANUARY, 2020.

- 1] None present for the petitioner.
- 2] I have considered the strenuous submission of the learned Advocate on behalf of the Municipal Council. It is pointed out that there are concurrent interlocutory orders passed against the petitioner. The trial court declined injunction to the petitioner vide order dated 10.10.2016 passed under Order 39, Rules 1 and 2, below Exh.5 in Regular Civil Suit No.997/2016. The Appellate Court has dismissed Miscellaneous Civil Appeal No.238/2016 filed by the petitioner vide judgment dated 11.11.2016. It is strenuously submitted that the petitioner is indulging in encroachment and the Municipal Council is duty bound to remove such encroachment.
- 3] The learned Advocate for the respondent is right in submitting that there are concurrent findings at an interlocutory stage against the petitioner and as the courts

below noticed that no *prima facie* case was made out and the balance of convenience was not in favour of the petitioner plaintiff, that no relief was granted. However, I find that this Court has protected the petitioner by directing the parties to maintain *status quo* vide order dated 20.12.2016 which is in force for almost three years and two months.

4] In my view, ends of justice would be met by continuing the ad-interim protection granted by this Court for a further period of eight months and the trial court can be directed to decide Regular Civil Suit No.997/2016 within the said period.

5] As such, this petition is disposed off with a direction to the trial court to decide Regular Civil Suit No.997/2016 on or before 31.08.2020. The ad-interim protection granted by this Court on 20.12.2016 shall continue till 31.08.2020 or till the suit is decided, whichever is earlier.

6] It is made clear that if the trial court notices that the petitioner plaintiff is delaying the trial in the suit and if the suit is not decided within the time frame, the ad-interim protection granted by this Court shall stand automatically vacated w.e.f. 01.09.2020.

(Ravindra V. Ghuge, J.)