

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR****WRIT PETITION NO. 1347 OF 2021**

Smt. Mamta wd/o Gopikishan Bhartiya and another

vs.

Lata wd/o Madangopal Bhartiya

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

Court's or Judge's Orders.

Mr. Rahul S. Kurekar, Advocate for petitioner.

CORAM : MANISH PITALE J.

DATE : 25/08/2021

The present writ petition has arisen out of an order dated 26/11/2020, passed by the Court of Principal District Judge, Gondia, whereby a Miscellaneous Civil Appeal filed by the petitioners herein has been dismissed.

2. By the said appeal, the petitioners had challenged order dated 15/10/2020, passed by the Court of Civil Judge Senior Division, Gondia, whereby application filed by the sole respondent for temporarily restraining the petitioners from carrying out further construction in part of the property was allowed.

3. The record shows that in the present case a decree of partition and separate possession has been passed by the aforesaid Court at Gondia in Special Civil Suit No.45 of 2012. The final decree proceedings are pending and the sole respondent raised a grievance that even before the respective parties were put in possession of their respective shares, the petitioners had started construction on part of the property.

4. Considering the reasoning given by the two Courts below, this Court is not inclined to interfere with the impugned order. Yet, there is a grievance raised on behalf of the petitioners that the specific direction given in the impugned order dated 26/11/2020, by the Court of Principal District Judge, Gondia, while dismissing the appeal, to the effect that the Court below shall expedite the hearing of this final decree application and dispose of the same within two months, has not been complied with. It is submitted that each day of pendency of the said proceedings is detrimental to the interest of not only the petitioners, but all parties concerned.

5. In this backdrop, the learned counsel for the petitioners submits that a direction may be given

for immediate disposal of the final decree proceedings.

6. In view of the above, the writ petition is dismissed.

7. At the same time, the Court of Civil Judge, Senior Division is directed to take up final decree application No.71 of 2020, at the earliest for disposal expeditiously. The said Court is directed to dispose of the aforesaid final decree application in any case within a period of two months from today.

JUDGE