

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11852 OF 2022

Shakeel Ahmmed Mohammadsab
@ Shaikh Ahmed and another .. Petitioners

Versus

Mohd. Kalim Mohd. Osman
and others .. Respondents

Mrs. A. N. Ansari, Advocate for the Petitioners.
Shri Hamja Khan I. Pathan, A.G.P. for the Respondent No. 1.

**CORAM : SANDEEP V. MARNE, J.
DATE : 30TH NOVEMBER, 2022.**

FINAL ORDER :

. By the present petition, petitioners challenge judgment and order dated 30.06.2022 passed by the Adhoc District Judge – 2, Nanded thereby allowing the Misc. Civil Appeal No. 60 of 2012 and setting aside order of the Trial Court and granting injunction in favour of the plaintiffs restraining the defendants from making any construction on and over the common wall in disputed lane on the western side of plaintiffs' property. The Trial Court had rejected the application for interim injunction by its order dated 03.05.2012. The plaintiffs filed Misc. Civil Appeal No. 60 of 2012 challenging order of the Trial Court in which an interim order was passed on 11th May, 2012 directing both the parties to maintain status quo. By further order dated 19.05.2012 the defendants were restrained from making any sort

of construction over the common wall. The interim order remained in force till final decision in the appeal on 30.06.2022.

2. I am informed that in pursuance of the interim order passed by the lower Appellate Court on 11.05.2012 and 19.05.2012, both the parties have not carried out any construction at the suit site. Mrs. Ansari, learned counsel for petitioners submits that, though an attempt was made by the defendants to fix the shutter and for that purpose some part of one side of common wall was broken. Subsequently, broken portion of wall has been reconstructed.

3. Mr. Pathan, learned counsel appearing for respondent No. 1/defendant disputes this position.

4. Be that as it may. From the photographs produced before me, it appears that none of the parties have carried out construction in the disputed lane. In my view, instead of determining correctness of the order passed by the District Judge, it would be appropriate to expedite the suit which is pending since the year 2012. I am informed that the suit is at the stage of recording of evidence.

5. In that view of the matter, present petition is disposed of with a request to the Trial Court to expedite the hearing of the suit and make an endeavour to decide the same as expeditiously as possible and preferably within a period of one (01) year from

today. Till final decision in the suit both the parties shall maintain *status quo* in respect of the suit property. There shall be no order as to costs.

[SANDEEP V. MARNE, J.]

bsb/Nov. 22