

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.1706 OF 2019**

M/s. Shree Ayyappa Constructions

..Petitioner

Versus

Smt. Nalini Vidyanand Oak and Ors.

..Respondents

Ms. Gauri Godse, for the Petitioner.

Mr. Vishal L. Kolekar, for Respondent Nos.1 & 2.

**CORAM : NITIN W. SAMBRE, J.**

**DATE : 18<sup>th</sup> JANUARY, 2022**

**PC.**

1. This petition is by defendant No.10 in Special Civil Suit No.43 of 2017 wherein respondents/plaintiffs have sought relief of declaration, cancellation of documents and perpetual injunction.

2. The petitioner has questioned order passed below Exh.1 whereby the Trial Court has directed petitioner/defendants to proceed with the hearing of the injunction application.

3. The contentions of learned counsel for the petitioner Ms. Gauri Godse are the prayer for amendment of the writ petition is already pending, so as to effectively argue injunction application, it is necessary that the application for amendment of written statement Exh.39 be decided first.

4. Counsel for the plaintiffs/respondents submits that

petitioner is dragging the suit proceedings and not co-operating with the Court below in expeditious disposal of the injunction application.

5. I have appreciated the submissions of the respective counsels.

6. Counsel for the original plaintiffs has extended consent and granted no objection for allowing application Exh.39 for grant of amendment to the written statement.

7. In view of above, application Exh.39 for amendment of written statement stands allowed. The petitioner/defendant No.10 shall within two weeks deposit cost of Rs.5000/- to which the respondents/plaintiffs will be entitled to withdraw. After the deposit of amount of cost, the petitioner will be entitled to carry out amendment. Counsel for the petitioner submits that cooperation will be extended in expeditious disposal of the temporary injunction application moved by the respondents/plaintiffs. In view of above submissions, it is directed that the application for temporary injunction moved by the respondents/plaintiffs be decided expeditiously in any case within eight weeks from the date of the production of this order before the Court below.

8. The petition stands disposed of in above terms.

**[NITIN W. SAMBRE, J.]**