

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

WRIT PETITION NO.2854 OF 2022

Sou. Ashwini Ashok Nigade

..Petitioner

Versus

Shri. Anil Namdev Devgirikar

..Respondent

Mr. Balasaheb G. Ligade, for the Petitioner.

Mr. Shantaram Tarale, for the Respondent.

CORAM : NITIN W. SAMBRE, J.

DATE : 14th MARCH, 2022

PC.

1. This petition is by the plaintiff to Regular Civil Suit No.807 of 2021 for declaration and injunction based on title. The petitioner claims to be holding title to the suit property based on registered sale-deed dated 20th May, 2017. As respondent/defendant claimed to have encroached on her property and started carrying out construction, the prayer for temporary injunction moved concurrently rejected by the Courts below.

2. I have heard respective counsels.

3. Parties hereto jointly agreed to the appointment of the TILR as a Court Commissioner.

4. As such, present petition stands disposed of with following order :-

- I) The statement made by the counsel for the respondent on instructions from the defendant that he shall not proceed with the construction till the report of the TILR is received, is accepted as an undertaking to this Court.
- II) In the meantime, Trial Court is directed to appoint TILR for measurement of the suit property, cost of which shall be borne by the petitioner/plaintiff. Let the aforesaid formality be completed within a period of six weeks from today.
- III) Once the report of the TILR is received before the Court below, petitioner shall be at liberty to move for prayer for grant of temporary injunction afresh which be decided without influence of the observations made in the impugned order.
- IV) Needless to clarify that till then the respondent shall not proceed with the construction.

[NITIN W. SAMBRE, J.]