

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

Writ Petition No. 1832 of 2022

[Jayantilal Daulatram Kawana ..vs.. Kanhaiyalal Lekhumal Rangwani and ors.]

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

Court's or Judge's orders

Mr. N. S. Warulkar, Advocate for the petitioner

CORAM : ROHIT B. DEO, J.

DATED : 4-4-2022

In a suit for permanent injunction filed by respondent 1 - Kanhaiyalal Rangwani against the State of Maharashtra and Akola Municipal Corporation, the petitioner preferred an application under Order I Rule 10 of the Code of Civil Procedure (CPC) on the premise that it is the petitioner, who is lessee of the suit property.

2. The injunction which is claimed in Regular Civil Suit 268/2014 is that the shop block may not be demolished by the State of Maharashtra and Akola Municipal Corporation. The issues are framed and the evidence has progressed substantially as is discernible from paragraph 1 of the order impugned. It is further submitted by learned counsel, Mr. Warulkar that the petitioner has instituted Regular Civil Suit 59/2021 against Mr. Kanhaiyalal Rangwani seeking decree of eviction.

3. The learned trial Judge has rejected the application under Order I Rule 10 of the CPC on the premise that considering the limited scope of the adjudication, the interest of the petitioner shall not be affected. The learned trial Judge further noted that the

petitioner has instituted a separate suit against the plaintiff Mr. Kanhaiyalal Rangwani and others for adjudication of his right. It is on such reasoning that the application under Order I Rule 10 is rejected. I do not see any error in the order impugned. The rights of the petitioner are sub judice in the separate and substantive suit which is already instituted. Regular Civil Suit 268/2014 seeks a limited relief and that too against the state of Maharashtra and Akola Municipal Corporation. Any finding recorded in such suit would not operate against the present petitioner.

4. The petition is dismissed.

5. However, at the request of learned Additional Government Pleader, Mr. Ukey, the trial Judge is requested to expedite Regular Civil Suit 268/2014 and to decide the same as early as possible and in any event, within the next twelve months.

JUDGE

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