

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

WRIT PETITION NO.2153/2018

Gajendra Tukaram Chaudhari Vs. Sau. Shobha Vinayak Panhalkar

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

Court's or Judge's order

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Mr. Dhiraj Ailani, Advocate h/f. Mr. U. J. Deshpande, Advocate for
Petitioner.
Mr. P. A. Gode, Advocate for Respondent.

CORAM : AMIT B. BORKAR, J.

DATED : 19th SEPTEMBER, 2022.

1. The original plaintiff has challenged the impugned order dated 16.03.2018 rejecting the application for temporary injunction restraining the defendant from carrying out construction over the suit property in a suit filed for specific performance of contract.

2. It is not in dispute that the prayer of the plaintiff against defendant not to create third-party rights during the pendency of the suit has already been granted by the Court below. The said order of injunction restraining the defendant from creating third-party rights is in force.

3. Insofar as the prayer restraining defendant from carrying out construction over the suit property is concerned, this Court by order dated 17.04.2018 protected the petitioner by passing following order.

“Any construction made by the respondent during pendency of the present proceedings would be subject to final orders in the writ petition.”

4. Since the said order is in operation for last more than four years, it would be in the interest of justice to continue the said order and to direct the Trial Court to decide the suit on merits.

5. I, therefore, pass the following order.

ORDER

The order dated 17.04.2018 shall operate as interim relief during the pendency of the suit.

6. With this clarification, the petition is disposed of.

JUDGE

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