

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

WRIT PETITION NO. 2960 OF 2022

Sau. Rajeshri w/o Nailkanthrao Zade

vs.

Shri Ghanshyam s/o Bhaurao Jamunkar and another

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

Court's or Judge's Orders.

Mr. S. S. Joshi, Advocate for petitioner.

CORAM : AVINASH G. GHAROTE J.

DATE : 10/10/2022

The impugned order challenges the order dated 15.02.2020 (page 11), by which judgment and decree passed by the learned trial Court dated 26.09.2017, in Regular Civil Suit No. 271/2012, holding that the petitioner is the owner of the suit property by virtue of will dated 10.12.2008 and the defendants therein are restrained from obstructing her possession over the same has been stayed by the learned appellate Court during the pendency of the appeal. The said order is being assailed on the ground that under the garb of the impugned order, the respondents are trying to disturb the possession of the petitioner.

2. The learned trial Court while recording finding on issue No.2 in R.C.S.No.271/2012(page 19) has recorded a categoric finding that the petitioner is in possession over the suit field. Though the decree was stayed, it has no effect on the finding of the possession of the petitioner over the suit field. On that count the petitioner is entitled to protect her possession. The impugned order does not in any manner seeks to alter the position regarding possession, in view of which, I do not find any merit in this petition. Accordingly the writ petition is dismissed. No costs.

JUDGE