

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

WRIT PETITION NO. 6217 OF 2022

Anil s/o Kisan Gaikwad

Vs.

Ashok s/o Kisan Gaikwad

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

Court's or Judge's Orders.

Mr. A.A. Mohd. Ansari, Advocate for petitioner.
Mr. S.V. Bhutada, Advocate a/w Mr. Y.J. Maheshwari,
Advocate for respondent Nos.6 & 7.

CORAM : VINAY JOSHI, J.

DATE : 25.11.2022.

Heard.

2. This petition is of the appellant (original plaintiff) in Regular Civil Appeal No.217/2022, raising a challenge virtually to the inaction of the appellate Court in passing interim order. The petitioner's suit for declaration, partition and separate possession was came to be dismissed.

3. Being aggrieved the petitioner has filed RCA No.217/2022, in which he has filed an application Exhibit 10 seeking interim relief to protect his interest. The first appellate Court has not

passed effective order on application at Exhibit 10, however, it is stated that notice was not served on other side and therefore, directed to issue notices.

4. It is informed by respondent's learned counsel Mr. Maheshwari, that already contesting respondents of the appeal have filed caveat but they have not been served with interim application, that is why the Court has issued notice.

5. The interim application filed by petitioner in appeal requires to be decided on merits.

6. In view of that, by consent of both sides, petition is disposed with directions to both parties to appear in RCA No.217/2022 on **14.12.2022**, when the matter is fixed. The first appellate Court shall endeavour to decide interim application within three weeks thereafter.

7. Interim order passed in this petition shall remain in force for the period of three weeks **from 14.12.2022**.

8. Petition stands disposed in above terms.