

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

WRIT PETITION NO.6024 OF 2022

Dnyaneshwar Trambak Sakhare .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its Managing
Trustee, Nilkanth S/o Shivshankar Patil and others

WITH

WRIT PETITION NO.6033 OF 2022

Smt. Vanmala Tulshiram Sonone .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its
Managing Trustee, Nilkanth S/o Shivshankar Patil and others

WITH

WRIT PETITION NO.6028 OF 2022

Rekha Pramodrao Deshmukh .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its Managing
Trustee, Nilkanth S/o Shivshankar Patil and others

WITH

WRIT PETITION NO.6030 OF 2022

Jagdish Bhumilal Bhartiya .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its Managing
Trustee, Nilkanth S/o Shivshankar Patil and others

WITH

WRIT PETITION NO.6031 OF 2022

Ganesh Ramesh Deshmukh .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its Managing
Trustee, Nilkanth S/o Shivshankar Patil and others

WITH

WRIT PETITION NO.6025 OF 2022

Rahul Ramkrushna Wadhokar .Vs. Shri Gajanan Maharaj Sansthan Shegaon, through its Managing
Trustee, Nilkanth S/o Shivshankar Patil and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri J.B. Gandhi, Advocate for the petitioners.
Shri A.R. Patil, Advocate for the respondents/caveator.

CORAM : ANIL S. KILOR, J.

DATED : 18/01/2023

1. Heard.

2. In this case, the orders below Exh.85 dated 11.02.2022 passed by the Civil Judge Junior Division, Shegaon, District Buldhana, is under challenge. The learned

trial Court vide impugned order rejected the applications of the petitioners filed under Order 6 Rule 17 of the Code of Civil Procedure.

3. The whole applications Exh.85 is based on an apprehension that if the plaintiffs demolishes the first floor, it may cause damage to the shop in possession of the petitioners.

4. Further the defendants wants to amend the written statement and bring the subsequent facts on record to avoid any technical objection to the applications filed by him for grant of temporary injunction, on the ground that the pleadings made in the applications are not the part of the written statement and therefore, such pleadings cannot be permitted to be raised in the application for temporary injunction first time.

5. The applications Exh.85 was filed by the defendants on 15.12.2021 i.e. more than one year before and therefore, specific question was put to the learned counsel for the petitioners about the present status of the suit property and whether the work of demolition is completed. Thereupon, he states that the plaintiffs have not carried the demolition work after filing of the applications Exh.85.

6. Shri Patil, learned counsel for the plaintiffs/respondents makes a statement that there is no such intention of the plaintiffs to demolish any part of the building. He further on instructions makes a statement that whenever the plaintiffs would be desirous of carrying out of such work of demolition, he would take permission of the Court.

7. In the light of the statement and undertaking given by the plaintiffs, I am of the opinion that the apprehension expressed by the defendants and the basis for moving application for amendment or application for temporary injunction does not survive. In the circumstances, the petitions are **disposed of**.

8. It is made clear that the observations made in the applications in the order below Exh.85 dated 11.02.2022 will not come in the way of the petitioners, in case, in future, they moves any such application on granting permission by the Court for demolition of any part of the building, at the request of the plaintiffs.

JUDGE