

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

WRIT PETITION NO.3120 OF 2019

[Bharat Mahadeosa Naik and others .vs. State of Maharashtra and others]

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

Court's or Judge's orders

 Shri R.G. Kavimandan, Advocate for the petitioners,
 Shri A.A. Madiwale, AGP for respondent nos.1 and 2,
 Shri R.J. Shinde, Advocate for respondent nos.10, 11 and 12.

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CORAM : MRS. VRUSHALI V. JOSHI, J.
DATE : 21/02/2023.

The petitioners have filed this petition challenging the order dated 31.01.2019 passed by the learned Civil Judge, Senior Division, Daryapur.

2. The petitioners filed the application in Regular Civil Suit No.96/2013 for addition of Shri Sant Tukaram English Medium Primary School as defendant no.13 in the Civil Suit filed by the petitioners for permanent injunction. On the suit property, the school is situated. Though defendant no.12 is the President of the said School, he is arrayed in personal capacity. The petitioners have filed the application stating that as the school is there on the suit property and it will directly affect the school if the order is passed in favour of the petitioners as permanent injunction is sought against the said property.

3. The defendants have filed reply and stated that the President of the school is already party in this matter and,

therefore, there is no need to add the school as defendant no.13.

4. Shri Sant Tukaram English Medium Primary School is situated on the suit property. Though respondent no.12 is President of School, he is contesting the suit in his personal capacity and not as President, presence of said school is necessary for proper adjudication of Civil Suit. Moreover, the school will get the opportunity to contest the matter. It will not prejudice the respondent. Hence, the petition is allowed. The order passed by the Civil Judge, Senior Division dated 31.01.2019 is hereby quashed and set aside.

(MRS. VRUSHALI V. JOSHI, J.)

Gulande