



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

CIVIL REVISION APPLICATION NO.92/2023

Sandip Bhaskarrao Arbat .vs. Prajakt Subhash Bhandekar and Ors.

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

Court's or Judge's orders

Mr. S. S. Shingane, Advocate for applicant.
Ms. Swati Kulkarni, Advocate for non applicant no.1.
Mr. A. P. Kalmegh, Advocate for non applicant no.2.

CORAM : ANIL L. PANSARE, J.

DATE : 16.10.2023

On previous date, following order is passed:

“Heard for some time.

2. The non-applicant has sought declaration that the construction made by the applicant is over and above what has been sanctioned by the authorities. Further, the relief of injunction has been sought against the applicant from making construction upon plaintiff's land. The prayers in the form of further injunction have also been sought.

3. The trial Court has rejected the application filed by the applicant under Order VII Rule 11 of the Code of Civil Procedure, 1908 on the ground that though couple of prayers may be barred in terms of Section 149 of the Maharashtra Regional Town Planning Act, the other prayers cannot be said to be barred by law and that the plaint cannot be rejected in terms of law laid down in the case of Sopan Sukhdeo Sable Vs. Assistant Charity Commissioner [(2004) 3 SCC 137].

4. Prima facie, no case is made out by the applicant. However, learned counsel for the applicant seeks time to go through the plaint and to do research on the point. 5. Stand over to 16-10-2023.”

Counsel for the applicant failed to point out that the plaint could be partly rejected.

In view thereof, I do not find that the trial Court has committed any error in rejecting the application filed by the applicant, under Order VII Rule 11 of the Civil Procedure Code, 1908. There is no merit in the revision. The revision is dismissed.

At this stage, learned counsel for the applicant submits that he may be granted liberty to get the defence struck off in terms of **Sopan's** judgment supra.

If the law permits the applicant to seek such a relief in terms of **Sopan's** judgment, granting or not granting liberty is immaterial.

(Anil L. Pansare, J.)