

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

Writ Petition No.6623 of 2022

Ganesh S/O Bakaram Waghaye And Another Vs Indira W/O Raghunath
Bande buche

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

Court's or Judge's Order

Shri S.G. Karmarkar, Advocate for the Petitioner/s
Shri S.P. Pawar, Advocate for the Respondent-sole

CORAM : ANIL S. KILOR, J.
DATED : 26.07.2023

1. Heard.
2. A temporary injunction granted in favour of the respondent-sole/original plaintiff by allowing the application Exh.5 partially vide order dated 14.02.2012 and upheld by the District Judge-2, in Misc. Civil Application No.13 of 2022, is under challenge in this writ petition.
3. The plaintiff filed a suit for perpetual and mandatory injunction along with an application for temporary injunction, praying to restrain the defendants/petitioners from interfering her possession over the suit land and further not to obstruct the work of plastering wall on the Northern side.
4. Both the Courts below have concurrently held that the plaintiff has *prima facie* case and if the injunction is not granted, the plaintiff will suffer irreparable loss and also held that the balance of convenience lies in favour of the plaintiff. Both the Courts below have held that the defendants are trying to convass

that dispute is regarding the identification of property on the basis of two list issued by the Gram Sevak in respect of the constructed house in Gat Nos.7 and 12 and also on the basis of the sale deed of the plaintiff in which the Gat number the property purchased was not shown. The Courts below found two contradictory documents showing new house No.582 in two different Gat numbers i.e. 7 and 12. Taking advantage of which the defendants appears to have advanced their case, claiming that there is a dispute about the identification of the property. However considering the pleadings made by both the parties and the documentary evidence produced on record, both the Courts have held in favour of the plaintiff.

5. The only argument made by the learned counsel for the petitioners is that, in the plaint, more particularly, in paragraph 8 and in prayer clause (b), the plaintiff has admitted possession of the defendants over the suit land and therefore, there is no question of grant of injunction, restraining the defendants not to obstruct the possession of the plaintiff. However, after going through the pleadings made in the paragraph 8 of the plaint, it does not suggest any such admission. It only speaks about the wall constructed by the petitioners on the Northern side, however, there is no admission as regards possession of the defendants over the suit land.

6. As nothing has been pointed out to show that any perversity has been committed by both the Courts below in granting temporary injunction in favour of the respondent, I do

not find any merits in the present petition. Accordingly, the petition is **dismissed**.

[ANIL S. KILOR, J.]