



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

WRIT PETITION NO. 172/2024

**Smt. Sumanbai W/o Natthuji Late and others Vs. Prakash S/o Natthuji
Dhapke**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. V.D. Muley, Advocate for Petitioners
Ms. Aarti Singh, Adv. for Respondent (Appointed)

CORAM: N.R. BORKAR, J.

DATED : 15th JULY, 2024

This petition takes exception to the order dated 07.11.2023, passed by the learned District Judge -2, Nagpur in Misc. Civil Appeal No. 111/2022.

2. The petitioners in a suit filed by them for declaration and injunction, filed an application at Exh.24 alleging that on 19.09.2021, the respondent / defendant obstructed them and their labourers from effecting repairs to the house owned by them. It was thus prayed that respondent be restrained from causing alleged obstruction. The learned trial Court rejected the said application on the ground that there is already temporary injunction operating in favour of the present petitioners. By the order impugned, the learned appellate Court has confirmed the said order.

3. The dispute between the parties is in relation to right of way. As stated earlier, the trial Court rejected the application at Exh.24 on the ground that there is already temporary injunction operating in favour of the petitioners. The appellate Court has confirmed the said order on the ground that if obstruction was caused inspite of temporary injunction in favour of the petitioners, then they should have filed an application for breach of injunction.

4. The learned counsel for the petitioners submits that though temporary injunction is operating in favour of the petitioners, there is every likelihood of the Court not entertaining the application for breach of injunction in absence of specific interim injunction as prayed in the application Exh.24.

5. I have perused the order of temporary injunction granted in favour of the petitioners. There is no doubt that the said order sufficiently protects the interest of petitioners, however, to allay the apprehension raised by the learned counsel for the petitioners it would be appropriate to grant interim injunction as sought in the application at Exh.24.

6. The orders impugned are therefore set aside. The temporary injunction in terms of prayer

clause (ii) of the application at Exh.24 is granted.

7. The petition is disposed of accordingly.
No costs.

(N.R. BORKAR, J.)

MP Deshpande