



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO. 2544 OF 2024**

Shri. Parshuram C. Sengar ...Petitioner
Versus
Sanjitsingh R. Sawan ...Respondent

Mr. S.V. Bhutada, Advocate for the Petitioner.
Mr. S.S. Sitani, Advocate for the Respondent.

CORAM : N. R. BORKAR, J.
DATE : 22 JULY 2024.

PC:-

. Heard.

2. This petition takes exception to the orders passed by the trial Court dated 3.1.2024 below Exhibit-39 and 1.3.2024 below Exhibit-42 in Special Civil Suit No.255 of 2023.

3. The respondent herein has filed the suit simplicitor for injunction against the petitioner. By the order impugned dated 3.1.2024 below Exhibit-39, the learned trial Court has granted interim injunction in favour of the respondent. As the remedy of appeal is available against the said order, the learned counsel for the petitioner, on instructions, seeks leave to file appeal against the said order. Leave as sought is granted.

4. By order dated 1.3.2024 passed below Exhibit-42, the trial Court has rejected the application filed by the petitioner for appointment of Court Commissioner.

5. According to the respondent, by Sale-Deed dated 11.3.2022, the petitioner had sold him one acre of land out of 2.60 Hectors of land bearing Khasra No.86 at Mouza Indora, Tal. Mouda, Dist. Nagpur.
6. According to the petitioner the schedule of the suit property filed by the respondent is ambiguous and thus application at Exhibit-42 was filed.
7. Admittedly, there is no separate map of the land purchased by the respondent. In such situation where there exist dispute in relation to identity of property, the trial Court ought to have allowed the application for appointment of Court Commissioner. The order impugned dated 1.3.2024 passed below Exhibit-42 is thus set aside. The trial Court shall appoint the Surveyor as Court Commissioner for identification of the suit property.
8. The Petition is disposed of in the above terms.
9. Pending Application(s), if any, are disposed of.

(N.R. BORKAR, J.)