



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

WRIT PETITION NO. 2961 OF 2024

(Deepak s/o Wasudeobhai Rathod
Vs.
Prabhubhai s/o Jadhavji Rathod & Ors.)

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. N.L. Jaiswal, Advocate for the Petitioner.

CORAM: N.R. BORKAR, J.

DATED : 8th JULY, 2024

Heard.

2. This Petition takes exception to the order dated 09.02.2024 passed by the 2nd Jt. Civil Judge Senior Division, Nagpur below Exh. 157 in R.C.S. No. 1207/2005. By the order impugned, the learned Trial Court has rejected the application filed by the Petitioner for vacating the interim injunction granted in favour of the Respondent No.1 by order dated 19.04.2008.

3. It appears that, pursuant to the application filed by the present Petitioner under Order VII Rule 11 read with Section 11 of the Code of Civil Procedure, the plaint was rejected. The Appeal was filed and the Appellate Court remanded the matter back to the Trial Court. The Second Appeal at the instance of Petitioner against the order of

Appellate Court is pending before this Court. Instead of pursuing the said Second Appeal, the Petitioner had filed the application in question for vacating interim injunction. Even it appears that, the decree on the basis of which, the application under Order VII Rule 11 of the Code of Civil Procedure was filed has not attained finality and Second Appeal arising out of the said decree is still pending.

4. Considering the peculiar facts and circumstances of the case, I am not inclined to entertain the present Petition.

5. The Petition is **dismissed**. No costs.

6. Pending application/s, if any, shall stand disposed of accordingly.

(N.R. BORKAR, J.)