



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH: NAGPUR
WRIT PETITION NO.3252 OF 2024**

Aqueel A. Siddique Proprietor of M/s. Arman Builders and Developers	...Petitioner
Versus	
Kailash G. Agrawal (Liladiya)	...Respondent

Mr. Ujwal R. Phasate for the Petitioner.
Mr. Yogeshkumar S. Gorle for the Respondent.

CORAM : N. R. BORKAR, J.
DATE : 11 JULY 2024.

PC:-

1. The respondent herein has filed a suit for declaration, partition and injunction. There are two orders impugned in this petition. By the first order passed below Exh.1, the trial Court directed the suit to proceed *ex parte* and by the second order passed below application at Exh.12, the trial Court has restrained the petitioner from carrying out any construction activity over the suit plot.

2. The learned counsel for the petitioner submits that on 05/07/2024, the petitioner/defendant has filed his written statement and the trial Court has taken it on record. In view of this submission, I had asked the learned counsel for the petitioner as to whether any application for recalling the order

passed below Exh.1 was filed before the trial Court, to which the learned counsel for the petitioner submits that petitioner had not filed any such application. If the trial Court has not recalled the order passed below Exh.1, then it is not understood as to how the trial Court has taken written statement on record.

3. Be that as it may, considering the overall facts and circumstances the order passed below Exh.1 dated 07/05/2024 is quashed and set aside.

4. As regards the order passed below Exh.12, it is in the form of temporary injunction and as such remedy of appeal is available to the petitioner against the said order. I am therefore not inclined to entertain the present petition against the said order.

5. The writ petition is disposed of in the aforesaid terms.

6. Pending application (s), if any, are disposed of.

(N.R. BORKAR, J.)