



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

WRIT PETITION NO. 4325/2024

Moresh S/o Eknath Jambhulkar and others Vs. Rupak S/o Eknath Jambhulkar and others

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. A.D. Bhate, Advocate for petitioners

CORAM: N.R. BORKAR, J.

DATED : 23rd JULY, 2024

This petition takes exception to the orders dated 31.10.2022 and 04.04.2024, passed by the learned Small Causes Court, Nagpur, below Exhibit Nos.32 and 42 in Regular Civil Suit No. 149/2017.

2. The petitioners are the defendants in the above suit filed by the respondents for mandatory injunction. According to the petitioners earlier to the filing of the suit by the respondents they have filed the suit for declaration and mandatory injunction. The learned counsel for the petitioners submits that that subject matter of both the suits is one and the same property. It is submitted that issues in the suit filed by the respondents are substantially the same in the suit filed by the petitioners. It is submitted that thus the application was filed under Section 10 of the Code of Civil Procedure seeking stay of the suit filed by

respondents. It is submitted that considering the facts and circumstances the trial Court ought to have stayed the suit filed by respondents.

3. According to respondents, the petitioners are gratuitous licensee, whereas according to the petitioners they are in possession of suit property in terms of partition / family arrangement. The suit is of the year 2017 and therefore, I am not inclined to interfere with the order impugned. It would be open to the petitioners to file an application for consolidation of both the suits.

4. The petition is dismissed. No costs.

(N.R. BORKAR, J.)