



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

Civil Application [CAN] No.104 of 2024

in

Contempt Petition No.295 of 2024

Rajendra s/o Rahtoomal Jain

vs.

Smt. Preeti w/o Pankaj Bhansali and another

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

*Mr. Shobhit Sharma (through V.C.) a/w Mr. Parth Malviya,
Advocates for the Petitioner.*

CORAM : M.W. CHANDWANI, J.

DATE : 25th OCTOBER, 2024.

Heard.

02. The petitioner has filed the suit for cancellation of sale-deed and permanent injunction. The trial Court by order dated 02/01/2017 restrained the defendants temporarily from causing any sort of damage to the structure standing on the suit property. Clause 1(III) of the interim order dated 02/01/2017 was confirmed by this Court vide its order dated 13/03/2019 passed in Appeal Against Order No.47/2017.

03. The petitioner filed contempt petition complaining breach of Clause 1(III) of the order of the trial Court by alleging that the respondents started carrying construction on the suit property and made changes in the structure inspite of the interim order granted by the trial Court. This Court by order dated 10/10/2024 issued notice to the respondents. While issuing notice, the respondents were directed to maintain *status quo* with regard to the structure standing on the suit property.

04. The instant application has been filed alleging that inspite of service of notice as well as order of *status quo* of this Court, which was within the knowledge of the respondents-contemnors, they had carried out construction even after passing of the order by this Court. Therefore, the petitioner seeks direction to the Station House Officer, Police Statio, Sitabuldi, Nagpur to take necessary steps to stop/stall the construction activities being carried out in the suit property.

05] It is a matter of record that by Clause 1(III), the trial Court has directed respondent Nos.1 and 2 not to cause any sort of damage to the structure standing on the suit property. At the time of issuance of notice, it was demonstrated to the Court that some sort of construction are being carried out, which amounts to change in the nature of suit property. Since, the Court was *prima facie* satisfied with the submission that some structural changes are being made in the suit property, the notice of contempt came to be issued.

06. Now, the contention is that in the photographs filed on record, some of the labourers are seen. Therefore, it is the presumption of the petitioner that construction activities are going on. According to him, he is not able to demonstrate, infact what types of activities are going on. According to him, in view of the order, no activities should be carried out.

07. It is a matter of record that by order of the trial Court, the original defendants in the suit are restrained from causing damage to the structure. Since, nothing is demonstrated inspite of notice of this Court that the respondents are carrying out activities which is prejudicial to the structure standing on the suit property, the prayer made in the application cannot be granted at this stage.

08. However, the petitioner is at liberty to move again before the Court with material to demonstrate that any sort of activities in prejudicial to the structure are being carried out. Liberty is also granted to move in the vacation.

**sandesh*

JUDGE