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908- WP-4925-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 4925 OF 2025

Ramnarayan Ramprasad Bang And Others

VERSUS

Ashok Badrinarayanji Toshniwal

...

Mr. Swapnil S. Rathi, Advocate for the Petitioners.

Mr. Milind Madhukar Patil, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 17th APRIL 2025

PC :-

1. Heard the parties.
2. Petitioner takes exception to an order dated 9th January 2025 passed by the learned District Judge-3 Nanded in MCA No.63 of 2024 wherein the appellate Court partly allowed the appeal and quashed and set aside the order passed by the learned trial Judge below Exh.5 Application. This petition is filed by the plaintiff whose application Exh.5 was allowed by the learned Joint Civil Judge, Senior Division, Nanded by order dated 13th August 2024. The defendant/present

respondent was temporarily restrained from causing any damage to the building of the plaintiff. It was further directed that the defendant shall not make any construction in four feet east-west wide lane in between the building of the plaintiff and respondent. This order came to be set aside.

3. Though both the parties have argued the petition at length, this Court noticed during the course of argument that already the structure of the building of the defendant is complete.

4. Mr. Rathi, the learned Advocate for the petitioner submits that the construction is in violation of the building bye-laws whereas the Mr. Patil maintained that the building is constructed strictly as per the permission granted by the Municipal Corporation.

5. This Court finds that there is no point in dealing with the writ petition. Without going into the merit, it would be clear that everything is done by the defendant i.e. construction of the building shall be subject to outcome of the suit pending before the trial Court. To that extent the defendant shall file an affidavit/undertaking in the trial Court within

two weeks from today.

6. The distance between two buildings shall be maintained as on today till final disposal of the suit.

7. With this, writ petition stands disposed off.

[KISHORE C. SANT, J.]