



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

WRIT PETITION NO.925/2022

Baburao S/o Shriram Band
...Versus...
Haribhau Shriram Band and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mrs. Sonali Saware (Gadhawe), Advocate for petitioner

CORAM : SACHIN S. DESHMUKH, J.
DATE : 29/07/2025

1. Heard learned Counsel for the petitioner.
2. It is the case of the petitioner that both the Courts below have ignored the fact of likelihood of transfer of property, because of which the petitioner would suffer irreparable loss. However, the Courts below while considering the said aspect have rightly taken into account the situation of transfer pendente lite, which is governed by Section 52 of the Transfer of Property Act, 1882.
3. Nevertheless, the legal position in that regard, in light of the judgment of the Hon'ble Apex Court in the case of *Wander Ltd. And Anr. Vs. Antox India P. Ltd. 1990 SUPP (1)SCC727* vis-a-vis *Mohd. Mehtab Khan and others Vs. Khushunma Ibrahim and others AIR 2013 SC 1099*, the Hon'ble Apex Court has laid down the principle in relation to substitution of exercise of discretion. Unless grave error is committed or perversity is noted, same cannot be substituted. This Court is of the view that no error is committed nor any

perversity is noted in the order under challenge, wherein both the Courts below have taken into account that the apprehension of the petitioner in relation to transfer pendente lite is sufficiently taken care of, in view of operation of Section 52 of the Transfer of Property Act. Therefore, the exercise of discretion has been rightly declined by the Courts below. As such, same need not substituted by this Court.

4. The petitioner is also relying on the judgment in the case of *M. Gurudas and others Vs. Rasaranjan and others (2006) 8 SCC 367* and *Zenit Mataplast Private Limited Vs. State of Maharashtra and others (2009) 10 SCC 388*. However, the facts of the present case are distinct, therefore, are not applicable to the present case.

5. In view of the above, I find no error in the impugned judgment passed by the lower Court. The writ petition is dismissed. No order as to costs.

(SACHIN S. DESHMUKH, J.)