

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

WRIT PETITION NO.65 OF 2025

[Riyaz Haq Fazlul Haq and Anr. ..vs.. Rekha Pramod Dhore and Anr.]

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

Court's or Judge's order

Mr S. I. Khan, Advocate for Petitioners.

CORAM : ANIL L. PANSARE, J.

DATE : 7th JANUARY, 2025.

1. Heard.
2. The challenge is to the finding rendered by both the Courts below. The respondents/original plaintiffs have filed a suit for declaration and permanent injunction against the petitioners/original defendants. It appears from the orders passed by the Trial Court as well as the First Appellant Court that the respondents came up with a case that they proceeded to prepare for construction on the plot purchased by them, when the petitioners obstructed the activities. It is further the case of respondents that to the northern side of their plots, between Armori Brahmapuri Road and the open space towards the southern side of the said road, is a portion of land left open to access the suit plots. Both the parties appear to have purchased plots from Gat No.373/2-A and thus, both the plots are adjacent to each other. It further appears from description of four boundaries of the plots that to the northern side exists Armori Brahmapuri Road.

3. In the aforesaid background, the respondents have further put up a case that the petitioner No.1 has sold the plot to the respondents by keeping open 80 fit space from the center of Armori Brahmapuri Road, which land is affected land for road construction and therefore, could not have been sold. In that sense, the respondents are claiming right of access from the said open space. Both the Courts below have found that this portion of land ought to be kept open and petitioners have no right to obstruct the respondents' access through the said plot and further to carry out construction activities.

4. Learned counsel for petitioners submits that the petitioners are not disputing the title of respondents over the suit plots. According to him, the portion of land alleged by respondents is a plot belonging to petitioner No.2, which he has purchased from petitioner No.1 *vide* registered sale deed executed in favour of petitioner No.2. It indicates that to the northern side of his plot, there is Armory Brahmapuri Road.

5. In my view, if the boundaries of plots as mentioned by respondents and by petitioner No.2 are considered, it is evident that all the plots are facing Armori Brahmapur Road and the said road is towards north side. If that be so, then the plots of respondents cannot be towards the southern side of the plot belonging to petitioner No.2. The claim of petitioners, therefore, that to the southern side of respondents' plots is the plot belonging to petitioner No.2 is incorrect. The finding, therefore, rendered by both the Courts below that to the northern side of respondents' plots is an open space appears to me to be in consonance with the facts pleaded. In the

circumstances and both the Courts below having rendered concurrent finding, I do not find any reason to interfere with the impugned orders under the supervisory jurisdiction under Article 227 of the Constitution of India. The petition is accordingly **dismissed**.

JUDGE

TAMBE