



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

Writ Petition No.3738 of 2024
Wakfa Sanstha Hanfi Masjid Trust and others Vs. Firoz Ahemad Sayyad Malang Ali
and another

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

Court's or Judge's orders.

Mr. V.G. Wankhede, Advocate for the petitioners.
None for the respondents.

CORAM : SIDDHESHWAR S. THOMBRE, J.
DATE : 13/10/2025.

1. Heard Mr. V.G.Wankhede, learned counsel for the petitioners.
2. The petition is directed against the order dated 2.8.2023 passed by learned Joint Civil Judge, Jr.Dn.Mehkar, below Exhibit 5, whereby the learned Trial Court granted an injunction. The said order was assailed before the learned District Judge-1, Mehkar by filing Misc. Civil Appeal No.11/2023.
3. The learned counsel for petitioners would submit that while passing the interim order, both the Courts below failed to consider the aspect of possession as well as ownership. He contends that the plaintiff/respondent has not placed any document on record to establish ownership of the property and that the petitioners are merely constructing a compound wall. It is further submitted that Municipal Council has issued a letter pointing out that the said compound wall is in a dilapidated condition. Therefore, he submits that interference is warranted with the orders passed by the Courts below.
4. I have gone through the findings recorded by the Courts below as well as documents placed on record.

5. Prima facie, the Courts below have considered only the prejudice likely to be caused to the plaintiff and have not recorded finding regarding ownership. Therefore, it is for the Trial Court to consider all aspects of the matter, including ownership, possession and the condition or not of the compound wall and whether it is in a dilapidated condition at the time of trial. Therefore, I do not find any reason to interfere in the orders of Courts below under Article 227 of the Constitution of India. Hence, writ petition is dismissed.

6. Considering the issue involved in the present petition, Trial Court to decide the suit within a period of one year from today. All points raised in the petition are kept open.

(Siddheshwar S. Thombre, J)

mukund ambulkar