



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

WRIT PETITION NO. 5794/2025

TRINETRA REAL ESTATE BUILDERS & DEVELOPERS, THR. ITS PROPRIETOR SHRI
DNYANESHWAR VITTALRAO CHINCHONE, NAGPUR

VERSUS

GAJADHAR PRASAD HIRALAL KOSTA & OTHERS

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

Court's or Judge's order

Shri P. A. Gode, counsel for the petitioner.

Shri Sanjay C. Mishra, counsel for the respondent no. 1 to 3.

CORAM : PRAFULLA S. KHUBALKAR, J.

DATE : SEPTEMBER 30, 2025

1. Heard learned counsel for petitioner.
2. Petitioner's challenge is to order dated 04th September 2025 passed by the Appellate Court thereby partly allowing Miscellaneous Civil Appeal filed by the petitioner/original plaintiff.
3. Learned counsel for peittioner submits that the petitioner is the original plaintiff who has filed suit for specific performance of contract in which the defendant no. 1 has admitted the agreement vide his written statement on record. It is submitted that the trial Court has passed an order directing the parties to maintain status quo which remained in operation till the decision on the application for temporary injunction. It is submitted that, during the pendency of the status quo the defendant no. 1 returned the amount of Rs. 25 lakhs even though the agreement was not cancelled. It is also submitted that in accordance with the terms of the agreement it was the responsibility of the owner / defendant no. 1 to obtain the regularization letter of the plot from the Nagpur Improvement

Trust and other documents for the purpose of sale deed. Since the necessary documents were not procured by the defendant no. 1, the plaintiff had issued notice calling upon the defendant no. 1 to get the documents prepared and at the same time, expressed readiness and willingness for performance of the agreement.

4. Learned counsel for petitioner submits that the appellate Court has considered these aspects and observed that there is prima facie case and balance of convenience to some extent, however, the appellate Court allowed the appeal partly and consequently after the impugned order is passed, the respondents are going ahead with the construction on the suit property. Petitioner has also expressed apprehension that the respondents may create third party interest in the suit property and therefore the petitioner prays for interim relief.

5. In view of the controversy involved, issue notice to the respondents on the petition as well as on interim relief returnable on 7th October 2025.

6. Learned Advocate Shri Sanjay Mishra who appears on caveat along with Shri Bhushan Mohta waives service of notice on behalf of respondent nos. 1 to 3.

(PRAFULLA S. KHUBALKAR, J.)