



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

WRIT PETITION NO. 2238 OF 2026

Ishwar s/o Lahanu Bawane

Vs.

The Director General Ordinance (Coordination & Service), Kolkata and Ors.

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

Court's or Judge's Orders.

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Mr. M.G. Burde, Advocate for petitioner.

Ms. Prachi Joshi, AGP for respondent Nos.4 to 8, 10, 11, 12 &  
16/State.

**CORAM : PRAFULLA S. KHUBALKAR, J.**

**DATE : 16.03.2026**

Heard learned counsel for the petitioner as  
well as learned AGP for respondents.

2. Although by this petition, the petitioner has  
challenged judgment and order dated 30.01.2026 passed  
by the appellate Court while deciding the Miscellaneous  
Civil Appeal No.105/2023, thereby partly allowing the  
appeal filed by the respondents and directing that the  
original plaintiff i.e. the petitioner herein shall be  
restrained from doing any construction over the suit  
property during the pendency of the suit, learned counsel  
for the petitioner, on instructions, states that the petitioner  
does not intend to make construction over the suit  
property during the pendency of the suit. However, the

petitioner has grievance against certain observations recorded by the appellate Court while considering the Miscellaneous Civil appeal which is arising out of an application for temporary injunction under Order 39, Rules 1 & 2 of the Code of Civil Procedure.

3. In view of the limited grievance raised by the petitioner, it is clarified that the appellate Court has passed the impugned order by recording its *prima facie* opinion based on the documents which were made available before it. However, while deciding the civil suit on merits, the trial Court is required to adjudicate the controversy on the basis of evidence to be led by the parties, without being influenced by any of the observations recorded by the appellate Court while passing the order dated 30.01.2026.

4. In view of this clarification, no further orders are required to be passed and the writ petition needs to be disposed of. Accordingly, the writ petition is disposed of. No order as to costs.

(Prafulla S. Khubalkar, J.)