

ORDER BELOW EXH.26

01] Through the present application the plaintiff has prayed for status-quo relief against the defendant. Heard the learned advocates of both the parties. Gone through the say (Exh.27) filed by the defendant and relevant record of the suit.

02] Basically it is the contention of the plaintiff that the defendant has not left required space from his property and started construction. His construction has reached to substantial extent. Due to which the purpose of filing present suit becoming infructuous. Importantly the photographs filed below application (Exh.28) do not clearly point out as to whether the defendant has left required space from his property or not. The plaintiff could have filed oral evidence in the form of affidavits of neighbors for pointing out said fact. However, nothing of that sort has been done. In the said situation, only on the oral words of the plaintiff, it cannot be concluded that the defendant is making construction without leaving required open space from the boundary of his property. So far as lapse of necessary permission for the construction by the defendant, it is the issue between him and the concerned municipal authority. In the supra facts prayer made by the plaintiff seen to be not tenable. Accordingly, I pass the following order.

ORDER

01. The application (Exh.26) stands rejected.
02. Costs would be determined at final stage.

Place : Roha.
Date : 27/09/2023

(S.S.Mahale)
Civil Judge Junior Division,
Roha, Dist. Raigad-Alibag.