



**ORDER BELOW EXH.49 IN SPECIAL CIVIL SUIT NO.607/2023**

The present application has been filed by the plaintiff for restoration of status-quo order.

2. It is the contention of the plaintiff that by passing order below Exh.26, this court has directed both parties to maintain status-quo. The said order is in existence. It is settled position of law that, unless the argument is heard on the application and final decision is not given on the said application, the order of status-quo remains in existence. The defendants are making construction over the suit property without following due process of law. Thus, the order of status-quo is passed. It will be existence till the decision on the said application is given and it cannot be vacated. Hence, he prayed that the order below Exh.26 of status-quo be restored.

3. It is the contention of defendant Nos.2, 3 and 5 that the present suit is filed in the year 2021. The plaintiff has sought status-quo order from the court and thereafter, did not take any steps for prosecuting the application below Exh.5. They have filed an application for vacating status-quo order on 27.09.2023. The plaintiff failed to file say over the said application. Therefore, the application of the defendants was allowed and the status-quo order is vacated. There is no merit in the present application. Therefore, they prayed that the application be rejected with heavy costs.

4. In the present case, this court has passed an order below Exh.26 for maintaining status-quo until further order. Later on, the defendants had filed an application for vacating status-quo order. The said application is allowed by my learned predecessor. The further order has already been passed. Therefore, no question arises for restoring the status-quo order.

5. The Ld. Advocate for the plaintiff placed his reliance on the following authorities :-

- [1] **Rajnikant Dhulabhai Patel Vs. Chandrakant Dhulabhai Patel**, reported in 2008 (5) All MR 409;
- [2] **Shyam Janardan Chaoudary Vs. Asha Ramdas Katkar**, reported in 2015 (1) All MR 48;
- [3] **Achutan Nair Vs. Narayanan Nair**, reported in 1988 (1) Civil LJ 347;
- [4] **Arif Vs. Motiram**, reported in 2016 (2) All MR 804;
- [5] **Harish Bulchand Tejwani Vs. Nandlal Hakikatrai Motwani**, reported in 2016 (1) All MR 127;
- [6] **Rajaram Mahadu Dahatonde And Ors. Vs. Babu Mahadu Dahatonde And Ors.**, reported in 2016 (2) All MR 326;
- [7] **Savitra Bapu Shinde Vs. Rau Rama Shinde**, reported in 2006 (1) All MR 423;
- [8] **Ravi Prakash Agarwal & Others Vs. Rajesh Prasad Agarwal & Ors.**, reported in 2008 (1) SCCR 690;
- [9] **Bento Antonio Gomes @ Antonio Bento Gomes Vs.**

Rosario Salvador Carneiro, reported in 2016 (3) All MR 790;

[10] Hari Ram Vs. Jyoti Prasad, reported in AIR 2011 SC 952;

[11] Govinda Bhagoji Kamable Vs. Sadu Bapu Kamable, reported in 2005 (1) All MR 272;

[12] Sri Samir Sobhan Sanyal Vs. Tracks Trade Pvt. Ltd. & Ors., reported in AIR 1996 SC 2102.

6. I have gone through the above citations carefully and it appears that, the facts in the said authorities are altogether different than the case in hand. Therefore, with respect to the authorities cited supra, I am of opinion that those are not applicable in the present case.

7. The plaintiff has an opportunity to proceed for argument over Exh.5. Further, instead of arguing on Exh.5, the plaintiff is interested in restoring the status-quo order which prima facie shows that the plaintiff is merely interested in prolonging the matter and not to proceed with application vide Exh.5. Therefore, I am of opinion that the present application is liable to be rejected. Hence, I pass the following order :

**ORDER**

(1) Application (Exh.49) is rejected.

(2) No order as to costs.

Date: 22.07.2025

(A. A. Pacharne)  
Jt. Civil Judge, Sr. Division, Wai.