

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 10884 OF 2014

1. Kadu S/o Satwa Kale,
Age : 60 years, Occu.Agril.,
2. Sk. Naseer S/o Sk. Mohammed Yakub
Age 50 years, Occup. Agril.,

Both R/o Parundi, Tq. Paithan,
District Aurangabad.

...PETITIONERS
(Ori. Plaintiffs)

versus

Hari S/o Dagdu Nalawade,
Age: 46 years, Occup. Agril.,
R/o Parundi, Tq. Paithan,
District Aurangabad.

...RESPONDENT
(Ori. Defendant)

.....

Mr. C.K. Shinde, Advocate for Petitioners
Mr. V.B. Garud, Advocate for respondent

....

CORAM : SUNIL P. DESHMUKH, J.

DATED : 10th JUNE, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith. Heard the learned counsel for the parties finally with consent.
2. This petition is filed by the petitioners - original plaintiffs, aggrieved by order dated 6-11-2014 in Miscellaneous Civil Appeal No. 160 of 2014 passed by District Judge - 4 Aurangabad, arising out of order dated 21-08-2014, passed by Civil Judge, Junior

Division, Paithan, whereby application Exhibit-5 for temporary injunction in Regular Civil Suit No. 182 of 2014, has been rejected.

3. The dispute, as is stated by learned counsel for petitioners is in respect of user of cart-way claimed in the suit. The right of user of cart-way, as alleged, is interfered with by the respondent-original defendant. The aforesaid order dated 21-08-2014 below application Exhibit-5 was the subject-matter in Miscellaneous Civil Appeal No. 160 of 2014. Under order dated 06-11-2014, District Judge – 4, Aurangabad allowed the appeal, and as such, present writ petition questioning the same has been filed by the petitioners.

4. However, learned counsel for parties concede to that, without going into merits of the case, it would be appropriate and expedient to direct the trial court to proceed with the suit and dispose of the same as expeditiously as possible.

5. Accordingly, Civil Judge, Junior Division, Paithan, is directed to decide Regular Civil Suit bearing No. 182 of 2014, on its own merits, as expeditiously as possible, preferably within a period of six months from the date of receipt of writ of this order.

6. The order dated 22-12-2014 passed by this court staying operation of order dated 06-11-2014 in Miscellaneous Civil

Appeal No. 160 of 2014 passed by District Judge - 4, Aurangabad will operate till disposal of the suit, within stipulated period.

7. As such, writ petition stands allowed in above terms. Rule is made absolute accordingly.

Sd/-
(**SUNIL P. DESHMUKH, J.**)

MTK