



of the suit property, has been answered in the affirmative. The learned Counsel for Petitioners further pointed out that by the Judgment and Decree in the Regular Civil Suit No.470 of 1988, a permanent injunction was granted against the Defendants from interfering with the portion of the property in the possession of the Petitioners as also the suit property, until appropriate demarcation was carried out by the appropriate authority in the matter. The learned Counsel for Petitioners pointed out that the Respondent No.1, through the D.I.L.R., did carry out some demarcation but the same was without any notice to the Petitioners. In any case, the said demarcation has been set aside by the Revenue Authority by Judgment and Order dated 30/12/2014. In such circumstance, the Judgment and Decree in Regular Civil Suit No.470 of 1988 has to be implemented and in pursuance thereof, the Respondents ought to have been restrained from undertaking any construction activity, at least until the issue of demarcation is finally sorted out.

2. Having heard the learned Counsel for the parties and perused the record, in my judgment, there is no reason to interfere with the impugned order, particularly at this interlocutory stage. The Judgment and Decree in Regular Civil Suit No.470 of 1988 did answer the issue of possession in favour of the Petitioners. But, as has been observed by the Appeal Court, even this Judgment and Decree merely indicated that the Petitioners were in possession of some portion of the suit property and not the entire suit property. The Revenue Authorities have carried out demarcation and the construction which

is undertaken by the Respondents pertains to the portion which has been demarcated in favour of the Respondents. The demarcation, though was set aside by the Order dated 30/12/2014, such Order has been stayed by the Revisional Authority on 04/02/2015. That apart, on the issue of title, at least *prima facie*, the findings even in Regular Civil Suit No.470 of 1988, were not clearly in favour of the Petitioners. In such a situation, no fault can be found with the impugned order, when it holds that the Petitioners have not been able to make out any *prima-facie* case, either on the basis of title or possession in respect of the portion of the suit property where the Respondents have commenced construction activity.

3. Besides, in a situation of this kind, even the balance of convenience cannot be said to be in favour of the Petitioners. However, it shall have to be clarified that any construction activity, which the Respondents undertake, will be subject to the final decision in the suit. Accordingly, the Respondents shall not be entitled to claim any equity in the matter. Further, it is clarified that the observations in the impugned order as also in the present order, are only *prima-facie* and for the purposes of deciding the issue of interim relief. The Civil Court shall accordingly proceed to decide the suit without being influenced by such observations.

4. Except for the aforesaid observations, there is no reason to interfere with the impugned order. This petition is accordingly disposed of. There shall be no order as to costs.

5. At this stage, the learned Counsel for Petitioners seeks for continuance of ad-interim *status-quo*, which was in operation during the pendency of Appeal before the learned District Judge. On the query as to whether the Petitioners would be willing to make substantial deposit of amount in the Court because on the basis of *status-quo* order, the construction activity was to be stayed, the response from the Petitioners who are present in the Court was that they would be willing to make a deposit of about Rs.50,000/-. In these circumstances, there is no case made out for continuance of ad-interim *status-quo* order.

(M. S. SONAK, J.)