

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.26925 OF 2014

Smt. Laxmibai Vishwanath Tupe and ors. : Petitioners
versus
Uman Ananda Tupe and ors. : Respondents.

Mr. Yuvraj P Narvankar for the Petitioners.
Mr. M. M. Sathaye for the Respondent Nos.1 and 2.

CORAM : R. M. SAVANT, J.
DATE : 07th January 2015

P.C.

1 There is a concurrent finding recorded by both the Courts below against the Petitioners – original Plaintiffs as regards their entitlement to the discretionary relief of temporary injunction. Both the Courts below on the basis of the material on record have come to a conclusion that the Plaintiffs/Petitioners have not made out prima facie case for the grant of temporary injunction. Both the Courts below have adverted to the case which has been set out by the Plaintiffs in the application for temporary injunction and have observed that it seems that the Plaintiffs are themselves not sure as to the situation on the site and hence have refused to exercise discretion in favour of the Plaintiffs.

2 The learned counsel appearing for the Respondent Nos.1 and 2 herein i.e. the original Defendant Nos.1 and 2 Shri Sathaye states that in the

suit in question the evidence of the Plaintiffs is complete and the Defendants have filed their affidavit of evidence and the said suit is at the stage where the witness of the Defendants has to be cross examined by the Plaintiffs.

3 Having regard to the reasons mentioned in the impugned order as well as considering the stage at which the suit in question is at present, no case for interference in the writ jurisdiction of this Court is made out. The above Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]