

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

WRIT PETITION NO.11181 OF 2014

Shri. Nandkishor Vishnu Sawant

.. Petitioner

Versus

Shri. Arvind Mahadev Sawant

.. Respondent

Shri. S. G. Karandikar, for the Petitioner.

CORAM : R.M. SAVANT, J.

DATE : 12th MARCH, 2015

PC.

1. The order dated 20th November, 2014 passed by the Learned Principal District Judge, Sindhudurg-Oros, by which order the application Exh.7 filed for stay of the decree came to be rejected is taken exception to by way of the above Petition.

2. The Petitioner herein is the original Defendant in the suit in question being Regular Civil Suit No.73 of 2008 which was filed for perpetual injunction by the Respondent herein. The Trial Court on the basis of the material on record which were the entries made in the revenue record in respect of the land in question being Survey No.277/3 (new Survey No.43/79) passed the decree of perpetual injunction in favour of the Plaintiff. The Lower Appellate Court before whom the

Regular Civil Appeal No.153 of 2014 was filed by the Defendant observed that the judgment rendered by the Trial Court is based on documentary as well as the oral evidence and therefore, at this stage, it cannot be said that the judgment and decree passed by the Trial Court against the Defendant is bad in law or against the record i.e. perverse. The Lower Appellate Court rejected the contention urged by the Defendant that since no temporary injunction was operating pending the suit, no prejudice would be caused to the Plaintiff if the decree is stayed. The Lower Appellate Court held that the decree could not be stayed in view of the fact that the suit has been decreed by the Trial Court and accordingly rejected the application for stay. Having regard to the reasons mentioned in the impugned order, no case for interference in the Writ Jurisdiction of this Court is made out. The Writ Petition is accordingly dismissed. However, considering the fact that the parties are closely related, the hearing of Regular Civil Appeal No.153 of 2014 is expedited and is directed to be disposed of latest by 31st December, 2015.

[R.M. SAVANT, J]