

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

WRIT PETITION NO. 2980 OF 2016

1. Mahadeo S/o Bapurao Bidve,
Age: 75 years, Occu: Agril.,
2. Shankar S/o Bapurao Bidve,
Age: 73 years, Occu: Agril.,
3. Dashrath S/o Bapurao Bidve,
Age: 70 years, occu: Agril.,
4. Shivaji S/o Bapurao Bidve,
Age: 72 years, Occup. Agril.,
5. Govind S/o Mahadeo Bidve,
Age: 35 years, Occ: Agril.,

All R/o Pimpalgaon- Ambad,
Tq. And Dist. Latur.

...PETITIONERS
(Ori. Defendants)

versus

1. Balasaheb S/o Narsing Bidve,
Age : 49 years, Occu: Agril.,
2. Bankat S/o Rambhau Bidve,
Age: 45 years, occu: Agril.,
3. Gangadhar S/o Shahurao Bidve,
Age: 40 years, occu: Agril.,

All R/o Pimpalgaon- Amba,
Tq. And Dist. Latur.

...RESPONDENTS
(Ori. Plaintiffs)

.....

Mr. R.K. Ashtekar, Advocate for petitioners
Mr. S.V. Natu, Advocate for respondents No.1 to 3

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 16th MARCH, 2016.

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and with consent of learned advocates for parties heard, finally.
2. Present petition has been moved by original defendants against judgment and order dated 29-01-2016 in miscellaneous civil appeal No. 32 of 2015 passed by District Judge - 1, Latur confirming the order dated 28-04-2015 below Exhibit-5 in regular civil suit no. 08 of 2015 passed by 2nd joint civil judge, junior division, Latur, whereunder application for temporary injunction of present respondents – original plaintiffs has been allowed.
3. Learned counsel for petitioners vehemently urges to stay the effect and operation of order dated 28-04-2015 below Exhibit-5 in regular civil suit no. 08 of 2015 passed by 2nd joint civil judge, junior division, Latur. It is being contended by the petitioners that right of way pursuant to section 143(1) of the Maharashtra Land Revenue Code, 1966 for access to their land bearing Gut No. 191 has been granted by Tahsildar. Said order has been challenged in regular civil suit no. 08 of 2015 which is pending before civil judge, junior division, Latur. Respondents - plaintiffs had also filed application for temporary injunction in said suit.
4. After discussing the matter and looking at pros and cons, the trial court under order dated 28-04-2015 granted the application for

temporary injunction of plaintiffs - present respondents and restrained the appellants - original defendants from creating any road in suit land and also from interfering and obstructing in the possession and enjoyment of plaintiffs over the suit land and further restrained from causing damage to the standing crops in the suit land till disposal of the suit. Said order has been confirmed under judgment and order 29-01-2016 in miscellaneous civil appeal No. 32 of 2015 by District Judge - 1, Latur.

5. Looking at the reasons which had weighed with the trial court as contained in paragraphs No. 11, 12 and 13 of its judgment and the same having been endorsed by the appellate court, I do not think *prima facie* case is made out for interference in judicial discretion exercised by trial as well as appellate courts. Writ petition, as such, is not being entertained.

6. Writ petition, as such, stands dismissed. Rule stands discharged.

7. However, at this stage parties to the suit fairly agree upon that the suit deserves expeditious disposal. In view of the same, 2nd joint civil judge, junior division, Latur, shall dispose of regular civil suit no. 08 of 2015 as expeditiously as possible, preferably within a period of six months from the date of receipt of writ of this order. It is expected that parties would cooperate the court for expeditious disposal of suit.

Sd/-

(SUNIL P. DESHMUKH, J.)