

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

WRIT PETITION NO. 8146 OF 2016

Mohan s/o Eknath Pawar, died,
through legal representatives:-

1-A Nilawati s/o Mohan Pawar and ors. .. Petitioners

vs

Baburao Ganpati Pawar and ors. .. Respondents

Mr. A. N. Nagargoje, Advocate for petitioners

CORAM : SUNIL P. DESHMUKH, J.
DATE : 1st August, 2016

ORDER :

1. Heard learned counsel for the petitioners.
2. Petitioners purport to have been aggrieved by order dated 01-07-2016 passed by District Judge-3, Latur, dismissing miscellaneous civil appeal no. 54 of 2011 filed by them against the order passed by Joint Civil Judge, Junior Division (4th Court) on 16-07-2011 granting temporary injunction in favour of respondent no. 1 - plaintiff in regular civil suit no. 9 of 2011.
3. Mr. Nagargoje contends that, as a matter of fact, the petitioners are not averse to right of way from the southern side of gut no. 34 whereas in the proceedings before revenue authority, the sub divisional officer has granted such right from northern side.

Appeal against such an order of the sub divisional officer at the instance of present petitioners is pending and the suit has been filed by plaintiff - respondent no. 1 claiming easementary right on the northern side of his gut number.

4. Petition primarily has been moved against dismissal of miscellaneous civil appeal filed upon injunction having been granted by trial court. Temporary injunction has been operating since 2011. Miscellaneous civil appeal has been decided only in 2016.

5. No case has been made out for passing effective order against operating temporary injunction, having regard to aforesaid.

6. In view of aforesaid, I am disinclined to interfere since the appellate court has referred to that the suit is at the far end of hearing.

7. Writ petition, as such, is rejected.

8. It is made clear that the observations appearing in the present order are in the interlocutory proceedings and as such shall not in any case have bearing on the decision being given on merits in the suit, and the decision on appeal before revenue authority at the instance of present petitioner.

SUNIL P. DESHMUKH,
JUDGE

pnd