

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

WRIT PETITION NO. 10854 OF 2015

Ravindra s/o Digambar Mahajan and others .. Petitioners

vs

Smt. Avantikabai Gambhir Mahajan and others .. Respondents

Mrs. Chaitali R. Kutti Choudhary, Advocate for petitioners
Mr. A. G. Talhar, Advocate for respondent no. 1 to 4

CORAM : SUNIL P. DESHMUKH, J.
DATE : 15th June, 2016

ORDER :

1. Heard learned counsel for parties at quite some length.
2. At this stage, it appears to have been considered by appellate court with reference to the prayers as have been made in the plaint along with certain documents like maps wherein ostensibly at interlocutory stage it appears that the boundaries which have been shown by plaintiff extend upto *nallh* (stream) which appears to be from survey no. 170 (Gut No.10). The appellate court also appears to have taken into account that the plaintiff-petitioner is not in a position to place any material on record prima facie to show that any *nallah* abuts his boundary on southern side of Gut no. 12 (Survey no. 172).

3. In the face of such position as obtaining at this stage from the material before the court, it does not appear that the impugned order upon such appreciation, calls for interference under the discretionary powers of this court.

4. As such, I am not inclined to intervene in the impugned order. Writ petition as such stands rejected.

5. Aforesaid observations or for that matter as are appearing in the appellate court's judgment and order are for decision at interlocutory stage before any evidence in trial and as such, observations in this order and those in the appellate court's order shall not influence the decision making in the suit which shall be decided in accordance with facts, circumstances, evidence and the law.

6. At this juncture, learned counsel for petitioner urges to expedite the proceedings. Having regard to the controversy involved and since the suit is pending from 2011, , it is expedient that the same is decided early, preferably within a period of nine months from the date of receipt of writ of this order.

SUNIL P. DESHMUKH,
JUDGE

pnd