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

WRIT PETITION NO. 3305 OF 2015

with

WRIT PETITION NO. 7802 OF 2015

Mr. Vinayak Gopal Dandekar and Anr. ...Petitioners.

V/s.

Mr. Avinash K. Srivastav and Ors. ... Respondents.

Mr. P.M. Arjunwadkar for the Petitioners in both Petitions.

Mr. Sanjiv Sawant for Respondents 1 & 2 in both Petitions.

CORAM : N.M. Jamdar, J.

14 September, 2016.

Oral Order :-

These two Writ Petitions arise between the same parties, in the same suit and are argued together and are disposed of by this common order.

2. Writ Petition No.3305 of 2015 is filed by the Original Plaintiff in Regular Civil Suit No.30 of 2015 wherein the Petitioners – Plaintiffs have challenged the order passed on 24 March 2015 by the learned Civil Judge, Junior Division, Palghar below Exhibit 59.

3. Writ Petition No. 7802 of 2015 is filed by the Petitioners – Plaintiffs challenging the order passed by the learned Civil Judge dated 5 March 2015 below Exhibit 22.

4. The learned Civil Judge by this order has framed a preliminary issue upon the application by the Respondents – Defendants as regard the valuation of the suit. The learned Civil Judge has granted an order directing the parties to maintain the status-quo till the disposal of the application for deciding preliminary issue under Section 9-A of the Code of Civil Procedure.

5. Heard the learned Counsel for the parties.

6. The Petitioners are aggrieved by the order granting status-quo as well as framing of preliminary issue. After arguing the matter for some time, the learned Counsel for the parties state that the Petitions can be disposed of as under and no reasons are required to be given as any observations of this Court on merits may affect the adjudication of the rival contentions. As regard the parties who are not represented, the learned Counsel for both the parties request that their presence is not necessary for disposal of the Petitions in view of the consensus between the parties regarding the course of action to be adopted. Accordingly, the Writ Petitions are disposed of as under :-

(i) The learned Civil Judge will take up the application under Section 9-A of the Code of Civil Procedure as well as the application filed below Exhibit 5 by the Petitioners for hearing together.

(ii) In case the decision on the application taken out by the Respondents – Defendants below Exhibit 22 is against the Respondents – Defendants, the learned Civil Judge will take up the application for temporary injunction immediately.

(iii) Needless to state that if the decision on the preliminary issue is in favour of the Defendants, the question of decision on Application below Exhibit 5 will not arise for consideration.

7. Keeping all contentions of the parties both on the issue framed under Section 9-A as well as the application for temporary injunction open, the Writ Petitions are disposed in above terms.

8. The learned Counsel for the parties state that the evidence has been led and only oral arguments remain for both the issues framed under Section 9-A of the Code of Civil Procedure as

well as temporary injunction and therefore, both the Applications can be disposed of early.

9. The learned Civil Judge, keeping in mind that the Applications are for temporary injunction, will take up the adjudication as indicated above as early as possible and dispose of the same on priority basis. On the basis of the express assurance of the learned Counsel for the parties of extending all co-operation for early disposal, the learned Civil Judge will consider disposing of the Applications within period of three months from the date writ of this Court reaches it.

(N.M. Jamdar, J.)