

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

WRIT PETITION NO. 4680 OF 2015

Vimal Dattatray Malode & ors. ... Petitioners

v/s

Sharad Ananda Deore & ors. ... Respondents

Mr.Neelesh Kalantri for the petitioner.

Mr.A.J. Jaibhave i/by Sudam Kale for Resp. Nos.1 to 5.

Coram: N.M. Jamdar, J.

Dated: 7 SEPTEMBER 2016

P.C.:

The Petitioners have challenged the order passed below Exh.31 in Regular Civil Appeal No.48 of 2014, dated 8 April 2015. The suit was partly decreed by the learned Civil Judge against which the appeal is filed by the Defendants. In this appeal filed by the Defendants, the Petitioners/Plaintiffs preferred an application for temporary injunction to restrain the Defendants from obstructing their possession. Therefore, it is for the first time that, in an appeal the order of injunction is sought by the Petitioners which has been rejected by the impugned order.

2 The Petitioners have remedy to file an appeal from order. Since that remedy is available, it is not necessary to entertain the writ petition. In view of this position, the learned counsel for the Petitioners seeks leave to withdraw the petition with liberty to file an appeal from order.

3 The writ petition stands disposed of as withdrawn with liberty as prayed for.

4 To enable the Petitioners to file an appropriate proceedings, the ad-interim order granted earlier will continue for a period of four weeks from today. If the appeal is filed within a period of four weeks, then the condonation of delay in filing the appeal will be favourably considered.

(N. M. Jamdar, J.)