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

**CIVIL APPLICATION NO.2264 OF 2016
IN
CIVIL APPLICATION NO. 1570 OF 2016
IN
CIVIL WRIT PETITION NO. 9231 OF 2013**

Suhas Prabhkar Gore & Ors. ...Applicants/Petitioners

VS

Pandurang Jagu Gore & Ors. ...Respondents

.....

Ms Roopshree Deshpande for the Applicants/Petitioners
None for the Respondents.

.....

CORAM : N. M. JAMDAR J.

2 SEPTEMBER, 2016

P.C. :

By an order dated 11 July, 2016, Civil Application No.1570 of 2016 was dismissed by way of speaking order by the Honourable the Chief Justice. While dismissing the application, the following observations are made in paragraph 5;

“It appears from the record that the original petition sought to challenge the order dated 22nd July 2013 of learned District Judge in Misc. Civil Appeal No. 30 of 2013 whereby the judgment and order dated 16th February 2013 of learned Civil Judge passed below Exh.5 in Regular Civil Suit No.85/2012 was confirmed. The petitioner has invoked Article 227 of the Constitution for challenging the orders as

aforesaid with prayer for interim relief against the impugned orders. In such matters, learned advocates are required and expected to pursue the matter diligently and in any case the main civil suit is admittedly pending before the trial Court. In these facts and circumstances and the reason mentioned in the application having not inspired any confidence, the application is dismissed with no order as to costs.”

The Petitioner has challenged the order dated 22nd July, 2013 by the learned District Judge, whereby the learned District Judge, has confirmed the order passed by the learned Civil Judge in respect of the temporary injunction. The Petitioner had invoked Article 227 of the Constitution for challenging the orders as aforesaid with prayer for interim relief against the impugned order. The learned Chief Justice held that in such matters, learned advocates are required and expected to pursue the matter diligently. It was further observed that, in any case main civil suit is pending and the petition was disposed of.

2 The order is on merits. It is sought to be contended that the earlier advocate was not present. The order shows otherwise. In any case, learned advocate for the applicant is not able to make a statement out of her personal knowledge that the earlier advocate was not present. Therefore, the court record will have to be accepted. Both

the courts have granted order of temporary injunction, which is operative since the year 2013. As observed earlier, the main suit is pending and all contentions can be raised by the Petitioners-Applicants in that suit. The Civil Application cannot be entertained and is, accordingly, rejected.

(N. M. JAMDAR J.)