

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

WRIT PETITION (ST) NO. 23189 OF 2016

Shri Raosaheb Pandharinath Kamble & ors. ... Petitioners

v/s

Shri Shashikant Nanasaheb Chandanshive
& ors. ... Respondents

Mr. Manoj Patil along with Ashish Pawar for the petitioners.

None present for the respondents.

Coram: N.M. Jamdar, J.

Dated: 1 SEPTEMBER 2016

ORAL ORDER:

Not on board. Taken on production board in view of the *praecipe* filed by the Petitioners.

2 The Petitioners challenge the orders passed below Exh.Nos.82 and 85 in Regular Civil Suit No.132 of 2014.

3 By an order passed below Exh.82, the prayer of the Petitioners to decide the application below Order 7 Rule 11 of the Code of Civil Procedure before the application below Exh.5, was rejected.

4 Heard learned counsel for the Petitioners.

5 The learned Civil Judge has noted that there is no such mandate unlike Section 9A that application below Order VII Rule 11 must be decided before an application for temporary injunction. The learned Judge has noted that, till the argument of the Plaintiff was heard on Exh.5, no such application was moved by the Petitioners. The learned Civil Judge therefore has rightly concluded that the Court cannot be restricted with going ahead with the hearing of Exh.5 and the Petitioners will have liberty to argue the application under Order 7 Rule 11 on its own merit. There is no error or illegality committed by the learned Civil Judge as regard the order passed below Exh.85, which rejects the prayer for stay.

6 No interference is warranted in both these orders. The writ petition is accordingly disposed of.

7 The application below Order 7 Rule 11 of the Code of Civil Procedure will be considered on its own merits by the learned Civil Judge, preferably at an early date.

(N. M. Jamdar, J.)