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

WRIT PETITION NO. 10853 OF 2014

Mr. Sarjerao Dnyandeo Yadav and Ors. ... Petitioners.

V/s.

Mr. Raghunath Bhau Yadav and Ors. ... Respondents.

Mr. Dilip Bodake for the Petitioners.
None for the Respondents.

CORAM : N.M. Jamdar, J.

25 August, 2016.

Oral Order :-

The Petitioners challenge the orders passed by the learned District Judge, Karad and the learned Civil Judge, Junior Division, Karad, rejecting the Misc. Appeal and the Application taken out by the Petitioners for temporary injunction. The Suit has been instituted in the year 2013. Right from the inception of the suit, there is no injunction in favour of the Petitioners and both the Courts have found that prima-facie case and balance of convenience is not in favour of the Petitioners.

2. The dispute appears to be in respect of a passage way that exist between the two houses. The learned District Judge, after considering the material on record, has come to a prima-facie opinion that the Petitions has another access. The learned District Judge has also examined the terms of the consent decree and prima-facie found that the disputed way was not in existence. It is not possible to interfere with the impugned orders which are based purely on adjudication of factual situation. Merely because another view is possible by re-appreciating the material is no ground to interfere under Article 227 of the Constitution. However, the request made by the learned Counsel for the Petitioners for expeditious disposal of the suit has merit. The grievance made by the Petitioner – Plaintiff is regarding a passage to his house. Therefore, liberty is granted to the Petitioners to make appropriate request to the learned Civil Judge for expeditious and early disposal of the suit. The Writ Petition is rejected.

(N.M. Jamdar, J.)