

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

WRIT PETITION NO. 13148 OF 2016

Laxman Bhujang Bolake @ Patil
and Ors.

..Petitioners.

Vs

Tukaram Narayan Bolake and
Ors.

.. Respondents

Mr. Kiran N. Joshi, Advocate for Petitioners.
Mr.Sandip J. Ghogare, Advocate for Respondents.

**CORAM : R.G.KETKAR,J.
DATE : 07/12/2016**

PC:

1. Heard Mr.Kiran Joshi, learned counsel for the petitioners and Mr. Sandip Ghogare, learned counsel for the respondents at length.

2. By this Petition under Article 227 of the Constitution of India, the petitioners, hereinafter referred to as 'plaintiffs', have challenged the Judgment and order dated 14.10.20.16 passed by the learned District Judge-1, Gadhinglaj in Misc. Civil Appeal No. 42 of 2015. By that order, the learned District Judge allowed the Appeal preferred by the respondents, hereinafter referred to as 'defendants', and quashed and set aside the judgment and order dated 7.11.2015 passed by the learned Civil Judge, Jr. Dn., Ajara, below Exhibit-5 in Regular Civil Suit No. 80 of 2015. The learned District Judge dismissed application Exhibit-5 filed by the

plaintiffs. Rule. Mr.Ghogare waives service on behalf of the respondents. Having regard to the narrow controversy raised between the parties as also at the request and by consent of the parties, Rule is made returnable forthwith and petition is taken up for final hearing.

3. After arguing the petition for quite some time, Mr Ghogare consents for setting aside the impugned order. He submits that the respondents will take out application before the learned District Judge for filing additional documents which are not on record. Mr. Joshi states that even the petitioners may be reserved liberty to file application for filing additional documents which are not on record.

4. Learned counsel appearing for the parties state that the parties will appear before the learned District Judge on 19.12.2016 and for that purpose no fresh notice be issued to them. The learned District Judge is requested to decide the appeal within four weeks from the date of appearance of the parties.

5. In view thereof, by consent, impugned order is set aside. Misc.Civil Appeal No.42 of 2015 is restored to the file of the learned District Judge. Liberty is reserved to the parties to file application before the learned District Judge for filing additional documents which are not on record. The learned District Judge shall pass appropriate orders thereon. It is not in dispute that

pending the Appeal, injunction issued by the trial Court was not stayed. In view thereof, pending the appeal, the order passed by the learned trial Judge shall remain in force.

6. The learned District Judge is requested to decide the Appeal within four weeks from the date of appearance of the parties.

7. Rule is made absolute accordingly with no order as to costs.

(R.G.KETKAR, J.)