

**IN THE HIGH COURT OF JUDICATURE
AT BOMBAY**

BENCH AT AURANGABAD.

WRIT PETITION NO.1619 OF 2015

Shashikala W/o Namdeorao
Sanap and others. ...Petitioners.

Versus

Tolan S/o Jagannath
Karande ... Respondent.

...

**WITH
WRIT PETITION NO.1992 OF 2015.**

Mr.A.N.Nagargoje, advocate for the petitioners.
None for Respondents.

...

CORAM : S.V.GANGAPURWALA J.

Date : 15.12.2017.

PER COURT :

1. In a suit filed by the present petitioners, the plaintiffs filed application for temporary injunction. The trial Court granted temporary injunction. The defendant filed appeal before the District Court. The District Court

allowed the appeal, thereby vacating the interim order passed in favour of the plaintiffs. The order is passed by the appellate Court on 7.11.2014.

2. Mr.Nagargoje, learned counsel for the petitioners submits that the appellate Court ought to be slow in interfering with the discretion exercised by the trial Court. The trial Court relied upon the documents on record, such as the measurement and the map. The appellate Court failed to consider this aspect in its correct perspective.

3. I have considered the judgments. No doubt, the appellate Court has to be loath in interfering with the discretion exercised by the trial Court. The appellate Court has considered about the map and the location of the property and the existence of the alternate road.

4. At this stage, the Court is required to be prima facie satisfied. Naturally, the suit will have to be decided on the basis of the

evidence adduced before it and at the time of deciding the suit, the interim orders are not required to be considered.

5. Considering above, I am not inclined to interfere in the order.

6. The Writ Petitions are disposed of. The trial Court shall endeavour to decide the suit expeditiously, preferably within nine (9) months. No costs.

(S.V.GANGAPURWALA, J.)

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