

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 08595 of 2017

District : Jalna

Vasant s/o. Rajaram Dakhane,
Age : 63 years,
Occupation : Agriculture,
R/o. Antarwali Sarati,
Taluka Ambad,
District Jalna.

.. Petitioner.
(Original plaintiff)

versus

1. Digambar s/o. Sawlaram Futane,
Age : 57 years,
Occupation : Agriculture.
2. Mathurabai w/o. Digambar Futane,
Age : 52 years,
Occupation : Agriculture.
3. Satish s/o. Digambar Futane,
Age : 52 years,
Occupation : Agriculture.

All R/o. Antarwali Sarati,
Taluka Ambad, Dist. Jalna.

.. Respondents
(Original defendants)

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Mr. S.J. Salunke, Advocate, for the petitioner.

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 10TH JULY 2017

ORAL JUDGMENT :

01. Heard learned Counsel for the petitioner. He contends that while appellants' advocate had been absent and that of respondent i.e. present petitioner had been present, the matter was adjourned on 18.03.2016 to 29.03.2016. While the petitioner's advocate had left the

court, an order of ad interim stay to temporary injunction granted in favour of the petitioner came to be passed. It is rather intriguing as to how the appellate court could pass order granting ad interim stay after having the matter adjourned. He submits that application - Exhibit 5 for temporary injunction had been decided after hearing the parties and yet the same came to be stayed as referred to above. He submits that the learned Judge of the appellate Court has committed grave error in passing order on the application after departure of petitioner's advocate. He, therefore, submits that the petition be allowed and the effect of the order staying the temporary injunction be stayed.

02. Although the situation as submitted on behalf of the petitioner appears to be intriguing, looking at the date of the order passed, which is 18.03.2016, and the petition has been moved in February 2017, I do not deem it expedient to go ahead in entertaining the Writ Petition and it would be better for the parties that the Misc. Civil Appeal against grant of temporary injunction by the trial court, itself is heard and decided expeditiously.

03. In view of the above, the appellate court to proceed with Misc. Civil Appeal No. 19/2016, pending before it, as early as possible and decide the same within a period of three months from the date of receipt of this order.

04. With the above observations, the Writ Petition stands disposed of.

(Sunil P. Deshmukh)
JUDGE

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