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

WRIT PETITION NO.3050 OF 2014

1. Vijay s/o Narayandas Rizwani,
Age: 47 years, Occ: Business,
& Agri., R/o. 37, Bhagya Nagar,
Nanded.

2. Prakash s/o Narayanrao Rizwani,
Age: 44 years, Occ: Business,
R/o. 37, Bhagya Nagar,
Nanded.

..PETITIONERS

VERSUS

1. Rajesh s/o Kishandas Rizwani,
Age: 40 years, Occ: Business,
R/o. Vazirabad, Nanded.

2. Narayan s/o Nawalroy Rizwani,
Age: 70 years, Occ: Nil,
R/o. Northern Branch, Shrirampur,
Dist. Ahmednagar.

3. Pradeep s/o Narayandas Rizwani,
Age: 41 years, Occ: Business
& Agri., R/o. 37, Bhagya Nagar,
Nanded.

4. Sureshchandra s/o Pannalal Lahoti,
Age: 68 years, Occ: Business,
R/o. Oppo.Mahakal Police Station,
Secunderabad, A.P.
Presently C/o. Purnima Electricals,
Vazirabad, Nanded,
Dist. Nanded.

5. Dr. Prakash Chimnani,
Age: 45 years, Occ: Medical Practice,
R/o. Sindhi Colony, Akola,
presently residing at Cottage

(2)

Hospital, Yavatmal,
Dist. Yavatmal.

..RESPONDENTS

Mr A.H. Kasliwal, Advocate for petitioners;
Mr. A.G. Godhamgaonkar, Advocate for respondent
No.1

CORAM : NITIN W. SAMBRE, J.**DATE : 3rd NOVEMBER, 2017****ORAL ORDER :**

Heard Mr. Kasliwal, learned Counsel for the petitioners-original defendants. He submits that the order impugned warrants interference and injunction clamped is required to be vacated for the reasons that there is no *prima facie* case or balance of convenience. He would invite attention of this Court to the order passed on 8th April, 2014 when notice was ordered so as to claim that second order directing the injunction ought not to have been passed at the behest of respondents.

2. Per contra, Mr. Godhamgaonkar, learned Counsel for respondent No.1 would urge that the order of injunction is in operation for more than four years, which was passed by trial Court and

(3)

confirmed by lower appellate Court. According to him, this Court has not stayed the order of injunction. He submits that the trial Court has rightly considered the material and ordered injunction in the matter having satisfaction about requirement contemplated under Order 39 Rule 1 and 2 of the Code of Civil Procedure.

3. Considered rival submissions. Having perused the order impugned passed by lower appellate Court in Misc. Civil Appeal No.42 of 2009 dismissed on 26th February, 2014 preferred by present petitioners-original defendants and the order dated 9th March, 2012 passed below Exhibit-5 in Special Civil Suit No.96 of 2002 by Joint Civil Judge, Senior Division, Nanded, it is required to be noted that while ordering injunction, the Court below has considered requirement as contemplated in Order 39 Rule 1 and 2 of the Code of Civil Procedure.

4. There are concurrent findings against the

(4)

petitioners-appellants qua injunction, which is made in operation for last more than four years.

5. In the aforesaid set of facts, it will be appropriate, in my opinion, to reject the present writ petition and accordingly is rejected, with observation that since suit is pending since 2002, hearing of the suit is expedited.

(NITIN W. SAMBRE, J.)

Tupe