

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

BENCH AT AURANGABAD.

WRIT PETITION NO.2564 OF 2013

Sanjay S/o Chandrasen Gaikwad... Petitioner.

Versus

Nanasaheb S/o Aambrushi
Gaikwad. ... Respondents.

...
Mr.S.J.Salunke, advocate for the petitioner.
Mr.M.G.Kasturkar, advocate holding for
Mrs.M.A.Kulkarni, advocate for Respondent Nos.1
to 3.

...

CORAM : S.V.GANGAPURWALA J.

Date : 28.08.2017.

PER COURT :

1. The petitioner is the original plaintiff. The petitioner filed suit for declaration and injunction along with an application for temporary injunction. The trial Court allowed the application for temporary

injunction. The defendants filed an appeal before the District Court. The District Court allowed the appeal. Aggrieved thereby, the petitioner has filed the present Writ Petition.

2. I have heard Mr.Salunke, learned counsel for the petitioner and Mr.Kasturkar, learned counsel for Respondents.

3. It is submitted that the plaintiff has examined himself and is going to examine one more witness and thereafter close his evidence.

4. Initially this Court had directed the parties to maintain statusquo. The said order is in force up to September 2015 and thereafter the said order is not continued.

5. Even otherwise, the observations made by the trial Court and the appellate Court at the time of determining of application for temporary injunction are prima facie in nature and the Court naturally, has to decide the suit on the basis of the evidence adduced before it and

considering the entire evidence and the observations made at an interlocutory stage may not have any effect in the final adjudication.

6. Considering that the matter is now ripe for evidence, I am not considering the matter on merits. The Writ Petition is disposed of with directions that the trial Court shall endeavour to decide the suit on its own merits in accordance with law expeditiously, preferably within six (6) months.

7. The Writ Petition is accordingly disposed of. No costs.

(S . V . GANGAPURWALA, J .)

