

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

**WRIT PETITION NO. 8333 OF 2016**

Vasant s/o Shankarrao Jadhavar  
and another ...Petitioners

VERSUS

Bapurao s/o Laxman Gawali  
and others ...Respondents

.....  
Shri B.S.Kudale, advocate for petitioners  
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**CORAM : S.V.GANGAPURWALA, J.**

**DATED : 16th January, 2017**

**O R D E R :-**

The present respondent no.1 had filed suit for injunction. The said suit came to be decreed. The present petitioners filed appeal before the District Judge along with an application Exh.5 for stay of the said judgment and decree. The said application is rejected. Aggrieved thereby, the present petition.

2. Mr. Kudale, learned counsel for the petitioners submits that initially the suit was filed by the predecessor-in-title of the present petitioners against the present respondent no.1. The said suit was decreed. However, appeal came to be allowed only because no relief was claimed. The learned counsel submits that thereafter the present petitioners had filed suit along with application for injunction. The application for injunction was rejected. Against that, the present petitioners filed an appeal before the District Court and said appeal is allowed, thereby injunction is clamped against the respondent no.1 from interfering with the possession of the petitioners in respect of suit property involved in the said suit. According to the learned counsel, all these aspects are required to be considered by the Court.

3. Mr. Bhavthankar, learned counsel for the respondent no.1 submits that, in fact, the suit properties are different. The present respondent

no.1 has purchased the suit properties, part of Block No.11, from its original owner, admeasuring 2 Hectares 83 Ares; whereas the petitioners claim their right to the extent of 2 Hectares 38 Ares through a different vendor.

4. I have considered the submissions canvassed by the counsel for the respective parties. I have also gone through the judgment and orders.

5. The injunction is operating against the present petitioners since the year 2014. The Courts have prima facie observed about the possession of the present respondent no.1. The Court in Writ Jurisdiction would be slow in interfering with the concurrent findings, though prima facie arrived at.

6. In fact, the finding of the Trial Court is after appreciating the evidence. Needless to state, the observations made by the District

Court, at this stage, are prima facie in nature and the Court would be required to consider entire evidence at the time of final disposal and would not be guided by the order passed below Exh.5.

7. Considering the afore said conspectus, it would not be proper to interfere with the order of the District Court. However, the District Court shall endeavour to dispose of appeal expeditiously, preferably within one year. The petitioners shall file paper book within a period of eight weeks from today. The parties shall cooperate in expeditious disposal of the appeal.

8. Writ Petition is accordingly disposed of.

No costs.

**(S.V.GANGAPURWALA, J.)**

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