

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

WRIT PETITION NO.12346 OF 2017

MAZHARKHAN HABIBKHAN PATHAN AND OTHERS.
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.

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Shri S.S.Thombre, Advocate for the Petitioners.
Shri S.N.Kendre, AGP, for Respondent Nos.1 to 3.
Shri S.R.Kedar, Advocate for Respondent No.4.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th October, 2017.

Per Court:

1 Not on Board. Mentioned. Taken on the Production Board.

2 I have heard the learned Advocates appearing for the respective parties.

3 After considering the submissions of the learned Advocates and on perusing the record, it is obvious that the ad-interim protection was granted to the Petitioners by the Trial Court on 02.05.2015 and the said relief was continuing until 14.09.2017, when the lawyers practicing in the courts at Majalgaon had observed mourning for one day. As a consequence, the application for continuing the ad-interim protection was not granted.

4 The learned Advocate for Respondent No.4 submits that though the suit has been preferred in 2015, application Exhibit-5 seeking temporary injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure, is still pending and the Plaintiffs are enjoying the ad-interim protection. He submits that if Exhibit-5 is directed to be decided within a time frame, the protection granted to the Plaintiffs could be continued only till the decision on Exhibit-5.

5 The learned Advocate for the Petitioners submits that they would not seek an adjournment in the hearing of application Exhibit-5.

6 Considering the above, this Writ Petition is partly allowed. Ad-interim protection granted to the Plaintiffs on 02.05.2015 shall continue till application Exhibit-5 is decided by the Trial Court. As such, the Trial Court shall endeavour to decide application Exhibit-5 as expeditiously as possible and preferably on or before 30.11.2017.

7 Needless to state, all the contentions of the litigating sides are kept open for the Trial Court to consider the same.