

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.3468 OF 2017

Smt. Suvarna Dadasaheb Magdum & ors. .Petitioners

Vs.

Rayappa Sangu alias Sangappa Magdum .Respondents
(since deceased) through Lrs.

Mr.Yuvraj Gharal i/b. Mr.Vijay Killedar, Advocate, for the Petitioners

CORAM : R.G.KETKAR, J.

DATE : 23.03.2017

P.C.

. Not on board. At the request of Mr. Gharal, taken up in the
production board.

2. Heard Mr. Gharal, learned counsel for the Petitioners.

3. This Petition is directed against the Judgment and Order dated 28.06.2016 passed by the learned C.J.S.D., Jaysingpur below Exh.24 in R.C.S.No.203 of 2013. By that Order, the learned trial Judge allowed the Application Exh.24 and restrained the Plaintiffs from damaging the suit property by excavation or any other manner, till disposal of suit. Having regard to the provisions of Order XLIII,

Rule 1(r) of the Code of Civil Procedure, 1908 (For short “CPC”),
Petitioners have alternate efficacious statutory remedy of filing Misc.
Appeal/Appeal from Order in the District Court against the impugned
Order. The Petition, therefore, cannot be entertained. Petition is
disposed of on the ground that it is not maintainable reserving liberty to
the Petitioners to file Misc. Appeal/Appeal from Order against the
impugned Order. It is made clear, that I have not examined merits of the
case. Order accordingly.

(R.G.KETKAR, J.)