

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (S) NOS.581 OF 2017 & 688 OF 2017

IN

SECOND APPEAL NO.336 OF 2016

DNYANDEORAO BHADUJI MAHALLE

VS

BALASAHEB TIMBAKRAO KHOKLE

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri M. V. Mohokar, Advocate for the applicant.
Shri U. J. Deshpande, Advocate for respondent.

CORAM : A.S. CHANDURKAR, J.

DATED : JULY 21, 2017.

By this application, it is prayed that ad interim relief granted on 14-2-2017 be vacated. By the order dated 14-2-2017, while issuing notice to the respondent *ad interim* relief was granted so as to restrain the respondent from using agricultural field No.7 for approaching this field bearing Survey No.82. Liberty was, however, granted to the respondent to apply for vacation of this order.

In the application, it is stated that neither during pendency of the suit filed by the appellant nor during pendency of the appeal any interim relief was granted to the appellant. The appellate Court on 31-7-2009 while rejecting the application for interim injunction moved by the appellant had restrained him from sowing anything on the Dhura. The

respondent was also restrained from damaging the crops of the appellant. It is, therefore, prayed that as interim relief was not operating since filing of the suit, the *ad interim* relief be vacated.

The application is opposed by the appellant by filing reply. It is submitted that an alternate way is available to the respondent to approach his field and, therefore, the *ad interim* injunction does not deserve to be vacated. Photographs are filed on record to indicate this aspect.

Perused the order passed by the trial Court below Exhibit-5 dated 19-6-2006 and the order passed below Exhibit-6 in Regular Civil Appeal No.26/2009 dated 31-7-2009. The appellate Court while refusing interim injunction restrained the appellant from sowing anything on the Dhura and also the respondent from damaging the crops of the appellant. Considering the position that was operating since filing of the suit and as modified on 31-7-2009, the application is partly allowed. Instead of granting relief in terms of prayer clause (i) of the civil application, the application is disposed of by passing the following order:

ORDER

The appellant shall not sow any crops on the Dhura and the respondent shall not damage any crops sown by the appellant. However, in this season if any crops have

been sown till today the same shall not be damaged by either of the parties. The aforesaid arrangement shall continue during pendency of the present proceedings.

Civil application nos.688/2016 and 581/2017 are disposed of in aforesaid terms.

JUDGE

/MULEY/