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

**9 APEAL FROM ORDER NO. 61 OF 2017
WITH CA/14425/2017 IN AO/61/2017**

**DHIRAJ RAMCHANDRA SONI AND ANOTHER
VERSUS
DARSHAN ANILKUMAR PATEL AND OTHERS**

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Advocate for Appellants : Mr.S.P.Brahme
Advocate for Respondent Nos.1 & 2 : Mr.P.V.Barde,
Advocate for Respondent Nos.3 & 4 : Mr.M.V.Navandar
Advocate for Respondent No.5 : Mr.A.R.Syed
Advocate for Respondent No.6 : Mr.S.H.Tripathi

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**CORAM : M.S.SONAK, J.
DATE : 29.1.2018**

PER COURT:-

After this matter was heard for some time, learned counsel for the parties submitted that this appeal may be disposed of with following agreed order:-

ORDER

a) The Trial Court is directed to frame preliminary issue of limitation. The parties are permitted to lead evidence and the Trial Court is directed to dispose of this preliminary issue one way or other, within a period of three months

from the date of production of authenticated copy of this order.

b) The restraint imposed upon the respondents by the impugned order is to be treated as a restraint imposed by ad-interim order in terms of Section 9A(2) of the Code of Civil Procedure until the preliminary objection of limitation as aforesaid is disposed of by the Trial Court one way or other.

[b(b)] In case the Trial Court rejects the preliminary objection raised by the defendants, then the Trial Court, shall proceed to decide the application for interim relief (Exh.6) again in accordance with law and on its own merits.

c) All contentions of all the parties on merits are kept open for adjudication by the Trial Court.

d) The appeal is disposed of in the aforesaid terms. There shall be no order as to costs.

e) Civil application does not survive and accordingly, disposed of.

f) The parties to appear before the Trial Court

(3)

on 5.2.2018 and produce authenticated copy of
this order.

[M.S.SONAK, J.]

SPT