

dik

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

WRIT PETITION NO. 997 OF 2017

Vijay Shankar Chothe & Ors.

...Petitioners

VS

Subhash Ishwara Chothe

...Respondent.

.....

Mr A.M.Kulkarni a/w Ms Akanksha Helaskar for the Petitioners.

.....

**CORAM : K.K.TATED, J.
MAY 03, 2018.**

P.C. :

Heard learned counsel for the petitioner.

2 By this petition under Article 227 of the Constitution of India, the original defendant challenges the order dated 25th February, 2016 passed by the learned District Judge, Sangli in Miscellaneous Civil Appeal No.26 of 2016 confirming the order dated 22nd January, 2016 passed by the learned Civil Judge, Junior Division, Vita below Exh.5 in Regular Civil Suit No.264 of 2015.

3 In the present proceedings the original plaintiff had filed Regular Civil Suit No. 264 of 2015 for an order of injunction restraining the petitioner from carrying out any construction

activities in C.T.S. No. 5580 and 5582 which is going to affect the easementary right for air and light. In that suit the original plaintiff preferred an application below Exh.5 that was allowed by the Trial Court on 22nd January, 2016 and the same was confirmed by the Appellate Court's order.

4 Considering the concurrent findings by the Trial Court as well as the Appellate Court and as the Regular Civil Suit No.265 of 2015 is pending for hearing on merits, I do not find any reason to interfere in both these orders under Article 227 of the Constitution of India.

5 Hence, the Writ Petition stands dismissed.

6 No order as to costs.

(K.K.TATED, J.)