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

WRIT PETITION NO. 7759 OF 2014

Rajkumar Aanaso Patil & Anr.	...Petitioners
vs	
Tejsingh Ranjit Khanvilkar & Ors.	...Respondents

.....
Mr Surel Sunil Shah for the Petitioners.
Mr P.D.Dalvi for Respondent Nos.1 to 3.
.....

**CORAM : B.P.COLABAWALLA, J.
DECEMBER 17, 2018.**

P.C. :

This Writ Petition has been filed seeking to challenge the order passed by the Appeal Court, namely, District Judge -2, Kolhapur dated 19th July, 2014 passed in Miscellaneous Civil Appeal No. 80 of 2011. By the impugned order, the Appeal Court allowed the appeal filed by the Defendants and vacated the injunction that was granted by the Trial Court vide its order dated 5th March, 2011. The Appeal Court has set out its reasoning from paragraph 9 onwards of the impugned order. The Appeal Court has come to a *prima facie* finding that Defendant Nos.1 to 3 are the owners of the suit land and the Plaintiff has not been able to produce any documentary proof maintained by the Revenue Authorities to show that they were in

possession. The Appeal Court has further noted the contention of the Plaintiffs that the Plaintiffs used to pay Defendant No.4 for supply of water which would show that they were cultivating the suit land. This contention was negated by the Appeal Court by giving a finding that merely because the Plaintiffs were paying for water to Defendant No.4, it could not be inferred that the Plaintiffs were in possession of the suit land. This was more so, when no proper description of the suit land was given.

2 On going through the impugned order, I do not find that the same requires any interference under Article 227 of the Constitution of India. I find that the order is a well reasoned one and after taking all the relevant material into consideration that was placed before it. Further, I am informed that the suit itself now is kept for arguments and the evidence of both parties is over.

3 Taking into consideration totality of the facts of the case, I do not find any merit in this Writ Petition. It is accordingly dismissed. However, there shall be no order as to costs.

4 It is made clear that any observations made either by the Trial Court or the Appeal Court or this Court are only *prima facie* in

nature and shall not influence the Trial Court whilst deciding the suit finally.

(B.P.COLABAWALLA, J.)