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

**SECOND APPEAL NO.949 OF 2015
WITH
CIVIL APPLICATION NO.2037 OF 2015
IN
SECOND APPEAL NO.949 OF 2015.**

Bhimrao B. Shinde and ors ... Appellants

V/s.

Executive Director,
Rajaram Bapu Patil Sahakari Karkhana
Ltd and ors ... Respondents

Mr. Ranjit Patil, for the appellants.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 18th JULY, 2018.

P.C. :

- 1] Heard learned counsel for the appellants.
- 2] The appellants have filed this suit before the trial Court, simpliciter for injunction restraining respondents from deducting loan from the sugar-cane bill, on the count that they have purchased the suit land on 9.6.1986. They have not availed any loan from respondent Nos. 2 & 3 and this fact is admitted by respondent Nos 2. and 3 also. The Trial Court has accordingly decreed the suit.

3] The Appellate Court has, however, allowed the appeal and dismissed the suit.

4] The learned counsel for appellants has drawn the attention of this Court to paragraph No.38 of the judgment of the appellate Court; wherein it has observed that :-

“38. At the time of arguments, Advocate for defendant Nos. 2 and 3 fairly submitted that they have not recovered the amount from the date of filing of suit and they will not recover the amount from plaintiffs, the plaintiffs also not claimed the amount or filed suit for the amount which was already deducted by defendant Nos. 2 and 3. Plaintiffs Advocate fairly admitted that the claim of recovery of amount which was deducted by defendant No.2 from sugarcane bill of plaintiffs is already time barred. The Plaintiffs have not filed for recovery of deducted amount”.

5] Learned counsel for the appellants further submitted that the Appellate court, in paragraph No.39 of its judgment has also observed that there is no reason to grant the relief of injunction as it is blanket relief which the appellants are claiming and if such relief is granted, in future, if there may be any transaction between appellants and respondents, that relief will be used as a tool

6] It is urged that at the same time the appellate Court has

also observed in paragraph No.39 of its judgment that the appellants are having efficacious remedy to file suit for recovery of amount and once there is efficacious remedy available to the appellants, that remedy has to be sought and not the relief of injunction.

7] It is urged that these observations of the Appellate Court may come in the way if the appellants decided to file suit for recovery of the amount.

8] However, in my considered opinion, it is not that these observations which will come in the way of appellants in filing suit for recovery of the amount, but the submission made by learned counsel for the appellants before it that the claim for the recovery of the amount, which is deducted by defendant No.2 from the sugarcane bills of plaintiffs has already been time barred.

9] Therefore, as far as the judgment of the Appellate Court is concerned, no reason is made out to interfere therein, as the issue involved before it, was only in respect of grant or refusal of injunction, having regard to the reasons given by the Appellate Court for refusal of injunction, no case is made out to interfere in the Second Appeal.

10] Therefore, the Second Appeal holds no merits and stands dismissed.

11] In view of dismissal of the Second Appeal, Civil

Application No.2037 of 2015 becomes infructuous and accordingly stands disposed off.

[DR.SHALINI PHANSALKAR-JOSHI, J.]