

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

WRIT PETITION NO. 13272 OF 2019

GANGARAM CHHOTULAL BHATAWALE
VERSUS
UMESH HIRALAL BHATAWALE AND OTHERS

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Advocate for the Petitioner : Shri R. D. Biradar
Advocate for Respondent No. 1 : Shri P. P. Mandlik

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CORAM : RAVINDRA V. GHUGE, J.

DATED : 08th NOVEMBER, 2019.

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PER COURT :

1. The petitioner / original plaintiff in Special Civil Suit No. 25/2018, is aggrieved by the order dated 05/01/2019 passed by the Trial Court, by which, application Exhibit 6 filed by the plaintiff seeking injunction under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, has been rejected.

2. The learned Advocate for the respondents submits that the petitioner has a statutory remedy available in the form of filing a Miscellaneous Civil Appeal.

3. The Honourable Apex Court has recently concluded in ***Virudhunagar Hindu Nadargal Dharma Paribalana Sabai vs. Tuticorin Educational Society, [2019 SCC Online SC 1292]***, that a statutory remedy has to be availed of and in the face of the availability of a statutory remedy, there is a “Near Total Bar” of the supervisory jurisdiction of the High Court in entertaining a Writ Petition directly.

4. In view of the above, this petition is disposed off with liberty to the petitioner to avail of the statutory remedy. The time spent by the petitioner in this Court from 05/02/2019 till the passing of this order, shall be a good ground for seeking condonation of delay.

(RAVINDRA V. GHUGE, J.)

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