

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

934 WRIT PETITION NO.5298 OF 2016

**MAHESH RAMKISAN TAK AND ANOTHER
VERSUS
KISAN BHAU PAWAR AND ANOTHER**

...
Advocate for Petitioners : Shri Ravindra Vitthal Gore
Advocate for Respondent Nos.1 & 2 : Smt..S.A.Dhumal (Tambat)
and Shri M.G.Deokate

...
CORAM : P.R.BORA, J.
DATE: 28th June, 2019

PER COURT:-

1. Heard learned counsel for the petitioners and learned Counsel appearing for the respondents.
2. The present petitioners are the original plaintiffs. They have filed a Suit for perpetual injunction against the defendants alleging that their peaceful possession over the suit property was allegedly disturbed by the respondents - defendants. Application Exhibit 5 was also filed by the petitioners - plaintiffs and the same was allowed by the Trial Court. However, in the Miscellaneous Civil Appeal filed against the said order, the First Appellate Court has set aside the said order. Aggrieved thereby, the present petition is filed.
3. When the present petition is taken up for hearing, on a query made by this Court, it is informed by the learned Counsel appearing for the parties that in Regular Civil Suit No.780 of

2012, the pleadings are complete, the issues are also framed and the matter is posted for evidence. In view of the fact that the Civil Suit itself is ripe for hearing, it appears to me that there is no propriety in deciding the legality of the order passed below Application Exhibit 5. It would be in the interest of both the parties that the Suit proceeds further wherein both the parties can adduce necessary evidence in support of their respective contentions and get the issues finally decided in the said Civil Suit.

4. In the circumstances, without going into the merits of the contentions raised by the parties in the present petition and keeping the said contentions open to be agitated by the parties before the Trial Court, the following order is passed:-

ORDER

I) The Trial Court shall hear and decide Regular Civil Suit No.780 of 2012, as expeditiously as possible and preferably within a period of nine months from the date of receipt of Writ from this Court by giving due opportunity of hearing to the parties to the lis.

II) Writ Petition stands disposed of in the aforesaid terms.

(P.R.BORA)
JUDGE

SPT