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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11262 OF 2017

Laxman Sidu Karagane & Ors.

..Petitioners.

V/s.

Vijay @ Sajjan R.Landge & Ors.

..Respondents.

Mr.J.A. Madane for the petitioners.

Ms.Rati Sinhasane I/b. Umesh R.Mankapare for the respondents.

CORAM : M.S.SONAK, J.

DATE : APRIL 12, 2019

P.C.:-

Heard Mr.Madane learned counsel for the petitioners and Ms.Sinhasane, learned counsel for the respondents.

2. Challenge in the petition is to the order dated July 6, 2017 made by Appeal Court allowing the appeal instituted by the respondent and setting aside the order dated July 18, 2016 made by learned trial Judge injuncting the respondent.

3. Mr.Madane, learned counsel for the petitioners submits that learned trial Judge in the order dated July 18, 2016 had clearly noted that the respondents had an alternate way. He submits that the Appeal Court has not considered this aspect and, therefore, the impugned order of the Appeal Court warrants interference.

4. Upon perusal of the order of the Appeal Court, it cannot be said that the Appeal Court has not taken into consideration the aforesaid aspect. The Appeal Court upon consideration of material on record has come to a *prima facie* conclusion and on the basis of the same held that the petitioner-plaintiff has failed to make out a *prima facie* case and balance of convenience is in favour of respondent-defendant.

5. The scope of interference in interim orders is extremely limited. It cannot be said that the Appeal Court has exercised discretion unreasonably and perversely. There is no interim relief operation in this petition. This means that at least from July 6, 2017, there is no injunction operating in favour of the petitioner.

6. However, learned trial Judge is directed to dispose of the suit R.C.S. No.252/2015 as expeditiously as possible, without being influenced by the observations made by the trial Court, Appeal and this Court. The suit will have to be decided on its own merits and in accordance with law after taking into consideration the evidence of the parties.

7. With the aforesaid observations, this petition is disposed of. There shall be no order as to costs.

8. All concerned to act on the basis of an authenticated copy of this order.

(M.S.SONAK, J.)