

DDR

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

**WRIT PETITION NO.1803 OF 2016
WITH
CIVIL APPLICATION NO. 2190 OF 2016
IN
WRIT PETITION NO. 1803 OF 2016**

Chandar Shantaram Telange & ors. ..Petitioners/Applicants

vs.

Darshana Anand Damle & anr. ..Respondents

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None for petitioners/applicants.

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CORAM : M.S.KARNIK, J.

DATE : 30th AUGUST, 2019

P.C. :

None had appeared on behalf of the petitioners/applicants on 29/8/2019. Only by way of an indulgence the matter was list today under the caption “for dismissal”. Even today none appears on behalf of the petitioners/applicants.

2. I have gone through the Memo of the Petition and the annexures. The petitioners are the original plaintiffs. They had filed the suit for partition and separate possession being

Regular Civil Suit No. 356 of 2013. The petitioners filed an application Exhibit 40 for injunction. The trial Court by an order dated 15/11/2014 allowed the application Exhibit 40 for injunction restraining defendant Nos. 1 and 5 from dealing with the suit properties and from creating third party rights during the pendency of the suit.

3. Defendant Nos. 1 and 5 filed Appeal before the District Court being Misc. Civil Appeal No. 98 of 2014. The Appellate Court by the order dated 5th February 2015 set aside the order of temporary injunction granted by the trial Court below Exhibit 40. The Appellate Court was of the view that there was no reason to grant temporary injunction as the provisions under Order 39 Rule 1 can be invoked only if protection provided by Section 52 of T.P. Act is shown to be inadequate.

4. I have gone through the order passed by the Appellate Court. The Appellate Court has passed a reasoned order. I do not see any reason to interfere with the manner in

which the Appellate Court has exercised its discretion while refusing temporary injunction in favour of petitioners. The order is passed as far back as on 5th February, 2015. I therefore do not find any reason to interfere with the order passed by the Appellate Court. The Petition is therefore dismissed with no order as to costs. Consequently, the Civil Application is also dismissed.

(M.S.KARNIK, J.)