

FARAD CONTINUATION SHEET No.  
IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH AT NAGPUR

**WRIT PETITION NO. 8071/2017**  
(PANDHARINATH DEORAO DESHBHRATAR & ANOTHER **VERSUS** DHANANJAY NATTHUJI  
KHOBRADE & ANOTHER)

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

Shri P.A. Kadu, counsel for petitioners.  
Shri P.N. Shende, counsel for R-1.

**CORAM : A.S. CHANDURKAR, J.**  
**DATE : APRIL 01, 2019.**

In view of notice for final disposal issued earlier, the learned counsel for the parties have been heard.

The petitioners are the original defendant nos.1 and 2 who are aggrieved by the order passed by the Appellate Court granting an injunction so as to restrain them from creating any obstruction to the plaintiff in taking water for irrigating his field and in the light of the terms of the agreement dated 19.09.2015. According to the plaintiff, he is the owner of field Survey Nos.229 and 213. By raising funds a Well was dug in the said land in the year 2015. As the fields of the defendant nos.1 and 2 were adjoining to the plaintiff's field, an agreement dated 19.09.2015 was entered into so as to agree about the manner in which the water would be drawn from the said borewell. On a dispute arising between the parties, the aforesaid suit seeking declaration so as to direct the defendants to abide by that agreement came to be filed. The defendant nos.1 and 2 however denied the right as claimed by the plaintiff. The trial Court rejected the application for grant of temporary injunction. The Appellate Court however has granted the injunction in question based on the agreement dated 19.09.2015.

This Court while issuing notice on 05.03.2018 had stayed the aforesaid order passed by the Appellate Court. After hearing the learned counsel for the parties, it is found that the suit is fixed for recording evidence of the plaintiff. Any observations at this stage with regard to the respective cases is likely to cause prejudice to either of the parties. The interests of justice could therefore be served by directing expeditious disposal of the suit.

Hence, in the light of the fact that the order dated 05.03.2018 has operated for a period of more than one year, the proceedings in Regular Civil Suit No.32 of 2017 are expedited. The suit shall be decided on its own merits by the end of July-2019. The parties shall not seek unnecessary adjournments. The suit be decided on its own merits and in accordance with law without being influenced by the fact that the order passed by the Appellate Court was stayed by this Court. Similarly, observations made in the impugned order shall not come in the way of either of the parties. The position in terms of the order dated 05.03.2018 shall continue to operate during pendency of the suit without prejudice to the rights of the parties.

The Writ Petition is disposed of in aforesaid terms. No costs.

**JUDGE**

APTE