

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

29 WRIT PETITION NO.5019 OF 2022

**SHAILA ANIL INGALE
VERSUS
SAGAR BALKIRSHNA MAHANUBHAV AND ANOTHER**

...
Advocate for Petitioner : Mr. Mewara Rajesh Hazarilal

**CORAM : MANGESH S. PATIL, J.
DATE : 04.07.2022.**

PER COURT :

Heard.

2 The petitioner is the original plaintiff is aggrieved by the fact that the trial court had granted temporary injunction in her favour but the lower appellate court in an appeal under Section 104 of the Code of Civil Procedure has remanded the matter back for a fresh decision on the application for temporary injunction (Exh. 5.).

3 As can be seen from the reasoning given by the lower appellate court, both the sides produced some documents at the appellate stage and the lower appellate court felt it necessary to remand the matter to enable the trial court to decide the application (Exh. 5) afresh by taking a stock of the documents those were sought to be produced at the appellate stage.

4. By no stretch of imagination, the approach of the lower appellate court could be said to be perverse or arbitrary. What it wants is that the parties should go back to the trial court, produce whatever additional documents they intend to produce and let there be a decision afresh on the application for temporary injunction.

5. True it is, even the course could have been followed by the lower appellate court itself. But then, it cannot be said to be wholly illegal to expect the trial court which is the first court to revisit the request for temporary injunction on the basis of the documents which both the sides felt relevant and wanted to be produced in support of their rival claims.

6. There is no merit in the petition. It is dismissed.

(MANGESH S. PATIL, J.)

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