

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

**CIVIL APPLICATION NO. 8542 OF 2022
IN WP/11963/2016**

**BALASAHEB DHONDIBA MISAL
VERSUS
DNYANESHWAR SAHAKARI SAKHAR KARKHANA LTD
THROUGH ITS GENERAL MANAGER AHMEDNAGAR AND OTHERS**

...
Advocate for the Applicant : Mr. D. R. Jayabhar
Advocate for Respondent No.1 : Mr. S. P. Salgar h/f. Mr. H. D. Deshmukh
...

CORAM : MANGESH S. PATIL, J.

DATED : 14 JUNE 2022

PER COURT :

1. This is an application by the respondent in writ petition seeking to recall the order dated 11-04-2017, whereby interim relief was granted, staying operation of the order under challenge, whereby the trial court had directed appointment of the court commissioner to carryout measurement.
2. Needless to state that the prayer is being made to vacate the interim relief which has been there since April 2017. Apparently, the relief is being claimed because of the anxiety being expressed by the respondent that the petitioner is continuing with and causing disturbance to his possession. Even a prayer for temporary injunction is being claimed under this very

application against the petitioner.

3. So far as recalling of the interim relief is concerned, one need not delve much and it is expected that the parties would be ready for final disposal of the writ petition. The order of appointment of court commissioner has been stayed, which was passed even before the parties went to trial. Therefore, that request cannot be accepted.

4. So far as other prayer regarding temporary injunction is concerned, this is not a substantive proceeding and merely undertakes a scrutiny of the order passed by the trial court in appointing a court commissioner. The substantive suit is pending before the trial court and if at all the respondent - applicant intends to have some interim relief /injunction he should approach the trial court.

5. Application is rejected.

(MANGESH S. PATIL, J.)