

1. Heard the learned counsel for petitioners.
2. The present petitioners are original defendants.
3. The respondents/original plaintiffs filed Suit for temporary injunction. The application Exhibit-5 for temporary injunction is rejected. The plaintiffs filed an Appeal before the District Court bearing Miscellaneous Appeal No.23/2012. The same is allowed under order dated 28.03.2013 restraining the present petitioners/defendants from operating their brick kiln during the pendency of the Suit by way of temporary injunction. On 08.05.2013 this Court issued notice. However, the

order of injunction was never stayed by this Court. The order of injunction passed by the District Court on 28.03.2013 is still in force.

4. For almost 8 years the order of injunction is in force.

5. The learned counsel appearing for parties are not in a position to state the status of the Suit.

6. The Appellate Court has ordered that, plaintiff no.1 runs a Beer Bar cum restaurant and plaintiff no.2 is owner of the agricultural land. The defendants did not obtain any permission to commence the operation of brick kiln which is adjacent to the land of plaintiffs and dust particles and smoke coming from the brick kiln pollutes the atmosphere.

7. In light of the above, the impugned order does not need interference.

8. Even otherwise, finding at the stage of deciding the temporary injunction application is only prima facie in nature. The Trial Court has to decide Suit on the basis of evidence led by the parties and is not guided by the observations passed while deciding the interim application.

9. In case, the Suit is pending, then the

Trial Court may endeavour to decide the Suit expeditiously and preferably within a period of six (06) months.

10. Writ Petition is disposed of. No costs.

(S. V. GANGAPURWALA)
JUDGE

Devendra/January-2022