

R.M. AMBERKAR
(Private Secretary)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10220 OF 2022

Navnath Kisan Kokare & Anr.

.. Petitioners

Versus

Vitthal Tatyaba Dube & Ors.

.. Respondents

-
- Mr. Drupad S. Patil for Petitioners
 - Mr. Nitin P. Deshpande for Respondents
-

CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 30, 2022

P.C.:

- 1.** Heard.
- 2.** Perused the impugned order dated 17.05.2022 passed below Exh. 17 by the Appellate Court against the order dated 28.03.2022 passed below Exh. 5 in R.C.S. No. 301/2021.
- 3.** It is admitted position that the Petitioners (original Defendants) had filed their written statement on 04.04.2022. While passing the impugned order dated 17.05.2022, learned Appellate Court ought to have considered and taken the same into consideration. However, the order dated 17.05.2022 proceeded on the premise that the written statement was not filed in the trial Court on the date of passing of the order by the Trial Court i.e. 28.03.2022.
- 4.** To that extent, the order dated 17.05.2022 passed below Exh. 17 is set aside. Equally the order dated 28.03.2022 passed below Exh. 5

in R.C.S. No. 301/2021 also stands set aside with direction that the learned Trial Court shall decide the Application under Exh. 5 for interim injunction afresh after taking into consideration the written statement filed by the original Defendants.

5. Learned trial Court shall not be influenced by this order while considering Exh. 5 Application and the same shall be decided on its own merits and in accordance with law.

6. Trial Court is requested to dispose of Exh. 5 Application as expeditiously as possible and in any event within a period of three months from today.

7. All contentions of the parties are kept open.

8. In the meantime, injunction granted vide order dated 28.03.2022 by the trial Court shall continue till disposal of Exh. 5 Application.

9. Petition is disposed of with the above directions.

[MILIND N. JADHAV, J.]

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