

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3424 OF 2022

GORAKH MANU CHAVAN AND OTHERS
VERSUS
BUDHA MAHARU CHAVAN

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Mr. Pramod D. Patil, Advocate for the Petitioners.

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CORAM : SHARMILA U. DESHMUKH, J.
DATED : JANUARY 07, 2023.

PER COURT :

1. Heard the learned counsel appearing for the Petitioner.
2. The Petitioner is aggrieved by the order dated 13th December, 2021 passed in Misc.Civil Appeal No.38 of 2021, setting aside the order dated 3rd August, 2021, passed by the Trial Court in RCS No.54 of 2021. By the order of 3rd August, 2021, the Trial Court has rejected the Respondent's application for injunction which finding has been reversed by the Appellate Court, by the impugned order dated 13th December, 2021.
3. The learned counsel for the Petitioner submits that the finding arrived at by the Trial Court was based on the facts of the case and the Appellate Court erred in interfering with the said order. A perusal of the order of Trial Court shows that after holding that the Respondent has made out a *prima facie* case and

irreparable loss would be caused if the temporary injunction is refused and that balance of convenience lies in his favour, the trial Court has refused the relief of temporary injunction only on the ground that the Respondent has committed undue delay to approach the Court. The Appellate Court by the impugned order has rightly held that all the ingredients for grant of temporary injunction has been established by the Respondents, and the Trial Court has erred in refusing the relief of temporary injunction. It is settled that at the stage of grant of temporary injunction, all that is required to be considered is whether plaintiff has made out a *prima facie* case, whether the balance of convenience in favour of the plaintiff and as to whether irreparable loss would be caused in event the temporary injunction prayer is refused. After holding that the plaintiff satisfies the well defined parameters for exercise of the discretion for grant of temporary injunction, the Trial Court has erred in refusing to grant of injunction, which erroneous finding has been set right of the order passed by the Appellate Court.

4. In view of the above, there is no infirmity in the order of the Appellate Court. The writ petition is devoid of merits and hence, disposed of.

(SHARMILA U. DESHMUKH, J.)