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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3991 OF 2023

Dipak Babulal Varma and Another

PETITIONERS

VERSUS

Bhanudas Laxman Nagpure

RESPONDENT

.....

Mr. Bharatkumar R. Warma, Advocate for the petitioners

Mr. Z. M.Pathan, Advocate for the respondent

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th APRIL, 2023

ORDER :

1. The petitioners are aggrieved by the order passed by the learned District Judge -2, Newasa below Exhibit-5 in Regular Civil Appeal No. 15 of 2022, thereby granting stay to the decree passed in favour of the petitioners – original plaintiffs.
2. The petitioners - plaintiffs filed the suit for permanent injunction, which was partly decreed. Being aggrieved, the defendant preferred Regular Civil Appeal No. 15 of 2022. The Appellate Court has granted stay to the decree by way of interim injunction. Hence, the present writ petition.
3. Heard learned advocate for the petitioners and the learned

advocate for the respondent. Perused the grounds raised in the writ petition, documents annexed with the same and the impugned order.

4. It is the grievance of the petitioners that the defendant was making construction, by encroaching over the suit property. The petitioners apprehend that because of this stay, the defendant would continue with the construction.

5. Learned advocate for the defendant – respondent, on the other hand, by placing reliance on the cross-examination of the plaintiff, submits that the plaintiff has given vital admission that the plaintiffs are not in possession of the suit property and that is why the Appellate Court has granted stay to the decree, that too for a limited period of 9 months or till final disposal of the appeal, whichever is earlier. He further submits that paper book is already submitted in the Appellate Court by the plaintiffs and the matter is kept for arguments on 25th April, 2023. He, on instructions, states that the defendant is not going ahead with the construction.

6. In the light of above aspects, this Court is not inclined to interfere in the order passed by the Appellate Court. The apprehension of the petitioners is already taken care of by the

statement made by the learned advocate for the defendant, on instructions, that the defendant is not going ahead with the construction.

7. Writ petition is, therefore, disposed of by directing the Appellate Court to decide the appeal expeditiously.

[NITIN B. SURYAWANSHI]
JUDGE

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