

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.15129 OF 2023

Annapurna Kalyani Mantagi & Anr. ... Petitioners
V/s.
Vijaya Laxman Zalake & Anr. ... Respondents

Mr. Drupad S. Patil for the petitioners.

Mr. Bhushan Walimbe for the respondents.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 12, 2023

P.C.:

1. By this writ petition under Article 227 of the Constitution of India, the petitioners/original defendant Nos.1 and 2 are challenging order passed by the Appellate Court confirming order dated 25 November 2022 granting injunction against the petitioners not to disturb possession of the plaintiff over the suit property.

2. Considering the reasons assigned by the Appellate court, it appears that the Appellate Court in paragraphs 12 to 17 has copy-pasted reasons assigned by the Trial Court without changing a word. This shows complete non-application of mind. Therefore, the impugned order cannot be sustained. Only on this ground, the impugned order deserves to be quashed and set aside and the matter needs to be reconsidered by the Appellate court on its own merits. Hence, following order:

- a) Impugned judgment and order dated 15 September 2023 passed by the Ad-hoc District Judge-1, Solapur in Miscellaneous Civil Appeal No.164 of 2022 is quashed and set aside;
 - b) Miscellaneous Civil Appeal No.164 of 2022 is restored to the file of Ad-hoc District Judge-I, Solapur for decision on merits. The Appellate Court shall decide the Appeal on its own merits by giving independent reasons;
 - c) The Appellate Court shall decide the Appeal within two months from today;
 - d) Parties shall appear before the Appellate Court on 18 December 2023.
3. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)