



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 649 OF 2021
IN SECOND APPEAL NO. 25 OF 2021**

**RAJKAMAL RAMPRASAD KARVA AND OTHERS
VERSUS**

RAJENDRAKUMAR KISANLAL JAISWAL

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Mr. M. N. Deshmukh, Advocate for applicants

Mr. V. S. Undre, Advocate for respondent

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 17 APRIL 2024

PER COURT :-

1. Heard both the sides at length.
2. By the present application, the appellant/original defendant No.1 prays for stay to the execution, operation and implementation of the judgment and decree dated 04.02.2020 passed by the learned District Judge-7, Jalna in R.C.A. No.43 of 2015 during pendency of the appeal.
3. Needless to say that the present respondent Rajendrakumar Kisanlal Jaiswal had filed R.C.S. No.57 of 2008

(Old R.C.S. No.174 of 2007) for perpetual injunction restraining the defendants from laying the cement pipeline and closing the sewage line. The plaintiff further prays for injunction restraining the defendant from using of plot/portion of plot for sewage purpose.

4. On 28.01.2015, the learned Joint Civil Judge Junior Division, Badnapur, dismissed the suit. Being aggrieved by the decree of dismissal of suit, the original plaintiff had filed R.C.A. No.43 of 2015 before the first appellate Court. On 04.02.2020, the learned first appellate Court passed the judgment and decree and quashed and set aside the judgment and decree passed by the learned trial Court.

5. The learned first appellate Court allowed the suit and perpetually restrained the defendants from causing any obstructions by disturbing natural flow of Nala situated in Gut No.177 adjacent to the land of the plaintiff by putting block or plug, the natural flow of the water from Northern side to Southern side. Being aggrieved by the said, the original defendant has filed the present Second Appeal along with Civil Application No. 649 of 2021. On 01.03.2023, the Second Appeal has been admitted and ad-interim relief in terms of

prayer clause (B) was granted till 26.04.2023, which has been extended time to time till date. Therefore, considering the nature of claim and the ad-interim order granted already, it would be just and proper to continue the interim order during pendency of the Second Appeal.

6. In view of the above, the civil application is disposed of.
7. Place the appeal for hearing as per its turn.

[Y. G. KHOBRADE, J.]

SMS