



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

31 WRIT PETITION NO.3333 OF 2025

SHAIKH IQBAL SHAIKH WAHED & ANOTHER
VERSUS
SHAIKH AYYUB SHAIKH RAMJAN & OTHERS

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Advocate for the petitioners : Ms.Khushi K.Varma
Advocate for Respondent nos. 1 to 4 : Mr.S.R.Dheple
Advocate for Respondent no.5 : Mr.A.L.Amoodi

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 17.11.2025

P.C. :

1] The learned counsel for the petitioners points out para no.7 of the order dated 18th December, 2024 passed by the District Judge-1, Bhusawal in Misc. Civil Appeal No.51/2023 and para no.7 of the said order is as under:

7] At the time of hearing, the learned advocate for the appellants/plaintiffs repeatedly submitted and emphasized that temporary injunction application filed by the plaintiffs is pending and the trial Court has not taken it for hearing but temporary injunction application Exh.23 filed by defendants is heard and allowed. However, from the perusal of memo appeal itself, it is evident that the temporary injunction application filed by the plaintiffs was rejected by the trial Court but they have not preferred appeal. May be so, plaintiffs have not challenged said order but suppression of this fact and arguing contrary to the record itself shows that the plaintiffs have not come before this Court with clean hands.

2] The learned counsel for the petitioners further submits that the Appellate Court has proceeded on erroneous presumption that the temporary injunction application filed by the plaintiffs was rejected by the trial Court but they have not preferred appeal. The learned counsel for the petitioners submits that the application for injunction of the petitioners was never decided.

3] The learned counsel for the respondents fairly concedes that the application of the petitioners is not decided.

4] It appears that the Appellate Court has proceeded on erroneous assumption that the injunction application filed by the plaintiffs is rejected and no appeal was filed by them, as such, the Appellate Court has proceeded to pass the impugned order.

5] Considering the same, the impugned order dated 18.12.2024 passed by the District Judge-1, Bhusawal in Misc. Civil Appeal No.51/2023 is quashed and set aside. The matter is remitted back to the Appellate Court and the Appellate to decide the Appeal on its own merits in accordance with law. Writ Petition is disposed of accordingly.

[ARUN R. PEDNEKER]
JUDGE