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

WRIT PETITION NO. 5274 OF 2024

Sampat Chillappa Jadhav and Anr.

... Petitioners

V/s.

Sambhaji Namdeo Jadhav and Ors.

... Respondents

Mr. Suryajeet P. Chavan for the Petitioners

Mr. Aditya Raktade (through V.C.) for Respondents

CORAM : ALOK ARADHE, CJ.

DATE : 07 JULY 2025

P.C. :

1. In this Petition under Article 227 of the Constitution of India, the Petitioner has assailed the validity of the order dated 7 February 2024 passed by the District Judge - I, Islampur, District Sangli, in Misc. Civil Appeal No. 48 of 2023, by which appeal preferred by the Petitioner under Order 43 Rule 1 and 2 of the Code of Civil Procedure has been dismissed and the order dated 15 September 2023 passed by the Trial Court rejecting the application for injunction has been affirmed.

2. Facts giving rise to filing of this Petition briefly stated are that the Petitioner has filed the suit seeking a relief of permanent injunction restraining the Respondents from raising the construction over the subject

property. Application for temporary injunction has also been filed. The application for temporary injunction has been rejected by the Trial Court by an order dated 15 September 2023 on the ground that the Petitioner has failed to disclose any *prima facie* case. The aforesaid order has been affirmed in the appeal by the Appellate Court on 7 February 2024.

3. The learned Counsel for the Petitioner fairly submits that the Respondent has already raised construction on the subject property.

4. In view of aforesaid submission, it is not necessary for this Court to examine the validity of the orders rejecting the prayer for temporary injunction. However, liberty is reserved to the Petitioner to amend the plaint seeking the relief of mandatory injunction, if so advised.

5. With the aforesaid liberty, the petition is disposed of.

(CHIEF JUSTICE)