



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

940 WRIT PETITION NO. 1607 OF 2026

Mohammad Yakub Abdul Kadar Saudagar And Others

VERSUS

Amol Shrihari Lahane And Another

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Advocate for Petitioners : Mr. S.R. Kedar

Advocate for Respondents 1,2 : Mr. Sayyed Tauseef Yaseen

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : February 25, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 28.1.2026 passed below Exhibit-5 in RCA No.49 of 2025 by the learned District Judge-2, Ambajogai, whereby petitioners prayer for grant of interim relief in pending appeal has been rejected.

2. Petitioner is original plaintiff in Special Civil Suit No.5 of 2023. Trial court rejected the plaint under order 7 Rule 11 of the Civil Procedure Code. Petitioner preferred R.C.A. No.49 of 2025 which is pending consideration before the District Judge. Petitioner filed an application for interim relief, pending decision in appeal. The Appellate Court refused to entertain the said application. Hence, present writ petition.

3. Learned advocate appearing for the petitioners submits that during pendency of the suit, interim relief was granted in favour of plaintiffs. Therefore, in appeal, similar relief ought to have been continued.

4. Learned counsel appearing for respondents opposes grant of any relief on the basis of contents of affidavit-in-reply filed and taken on record. Learned counsel appearing for respondents invites attention of this Court to the observations recorded in the impugned order, particularly, paragraph no.7, whereby giving reference to the law laid down by the Hon'ble Supreme Court of India in case of **IEEE Mumbai Section Welfare Association Vs. Global IEEE Institute for Engineers** (Civil Appeal No.7235 of 2025, decided on 27.5.2025) it has been observed that no injunction can be granted after rejection of plaint unless the rejection is reversed, as equitable relief under Order XXXIX cannot survive in absence of a pending suit.

5. There cannot be two views about the law espoused by the Supreme Court of India in case of **IEEE Mumbai Section** (Supra). The appellate Court is, therefore, justified in refusing to entertain the application for interim relief.

6. In light of aforesaid factual and legal backdrop, no relief can be granted to the petitioners in this writ petition. However, it would be appropriate in the interest of justice if the proceeding in appeal is expedited. In result, following order is passed.

Order

- i. Writ Petition stands **rejected**.
- ii. The learned District Judge shall endeavor to decide the pending appeal expeditiously and, in any case, within a period of three months from today. Parties to cooperate.

(S. G. CHAPALGAONKAR, J.)

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