

4254-10.sxw

implementing 'Jal Swarajya Project' on the suit well. The said application was rejected.

2] I have heard Mr.Gaikwad, learned counsel for the petitioners. He reiterates the submissions made in the courts below. He submits that the petitioners had given consent for construction of water tank and not for construction of well. He further submits that unless the permission to construct the well is obtained from the appropriate Authority, the well cannot be constructed. On the other hand, respondents support the impugned order.

3] With the assistance of the parties, I have gone through the material on record. In paragraph 12 of the Appellate Court's judgment, it is recorded that the evidence on record prima facie shows that respondent No.3 had completed the construction of well in the year 2007. The petitioners addressed a letter dated 21st August, 2007 to the Kshetra Mahabaleshwar Deosthan Trust, Mahabaleshwar, Dist.Satara, which records that the construction of the well in question was started by the respondents in Gat No.59. It is the case of the respondent No.3 herein that they completed the construction of the well by spending amount of Rs.Three lacs and the pipeline is also laid by spending more than Rs.Nine Lacs for supply of water to village Nakinda from the said well. The Appellate Court, therefore, recorded that the petitioners herein failed to prove that they have a prima facie case, particularly, when the petitioners herein instituted the Suit in the year 2010. The Appellate Court also came to the conclusion that the balance of convenience does not lie in favour of the petitioners and no hardship will be caused to the petitioners in case the injunction is refused. On this ground, the Appellate Court confirmed the trial Court's order.

4] Prima facie, I do not find any substance in the submissions made on

behalf of the petitioners, particularly, when it has been held by the Courts below that the said well was constructed in the year 2007 and present suit is instituted in the year 2010. I do not find that the Courts below committed any error of law apparent on the fact of record. Equally it cannot be said that the impugned orders of Courts below are perverse. The Courts below have considered the material on record and rejected the application. The respondents have spent public money for construction of well as also for laying the pipe line. The respondents are implementing 'Jal Swaraj Project' on the well. The interest of the petitioners are private and the respondents are serving public interest. In the circumstances, the petition, being devoid of substance, deserves to be rejected. Writ Petition is rejected.

[R.G. KETKAR, J.]