

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD
WRIT PETITION NO.3873 OF 2012,

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.S.S.Jadhavar, advocate for the petitioners.

CORAM : S.V.GANGAPURWALA, J.

Date : 30.04.2012.

PER COURT :

1. Heard.
2. The Respondent filed suit for injunction restraining the defendants from obstructing the plaintiff in taking water from the well. The temporary injunction application of the plaintiff was allowed. Aggrieved thereby, the defendants filed appeal before the District Court. The District Court dismissed the appeal. The defendants have assailed the said judgment in the present Writ Petition.
3. Mr.Jadhavar, learned counsel for the petitioners submits that the petitioners have purchased the property in the year 1999 and 2004. Even in the sale deed, there is recital of the right of the petitioners to take the well water. This aspect has been ignored by

the Courts below. Merely on the basis of a revenue entry which is taken behind the back of the petitioners, the Respondent can not claim any right. The vendor of the present petitioners is from the same family that of the Respondent and their right to take water from the well has been sold to the present petitioners. The Courts ought to have taken into consideration this aspect.

4. The Courts at this stage are required to consider the prima facie case. Both the Courts have considered the revenue record and the fact that the well is situated in the land of the plaintiff. The Courts on a prima facie consideration arrived at a plausible conclusion. The Writ Petition can not be entertained only on the ground that some other view also may be possible.

5. In view of the above, no case for interference in the Writ jurisdiction of this Court under Article 227 of the Constitution of India. The Writ Petition is dismissed. No costs.

6. Needless to state the observations made by the Courts below and this Court are only prima facie in nature and the Court would decide the suit on its own merits on the basis of evidence adduced, dehors the observations made herein.

7. Taking into consideration the dispute is with regard to the well water, the trial Court shall expeditiously dispose of the suit,

preferably within a period of nine (9) months from today.

(S . V . GANGAPURWALA, J .)

Dt.30.04.2012.
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