

Order below Exh. 50 in RCS 232/2013  
Babasaheb Vs. The Chief Officer, M.C, Jath  
CNR-MHSN080012532013

The application is under Section 151 of the Code of Civil Procedure, 1908 (the C.P.C.)

2 Perused the application, say, and the record.

3 Heard.

4 Brief facts:- The suit is for perpetual injunction restraining the defendants from encroaching upon and laying of pipeline, along with an interim injunction application. Defendant 1 has objected to the claim by filing written statement cum say to the interim injunction application below Exh. 16. Defendants 2 to 10 by filing their written statement cum say to interim injunction application have objected the claim below Exh. 11. The interim injunction application has been rejected by the Ld. Predecessor on 02/04/2014.

5 Brief facts in the application:- The application is predicted on the ground that, the appeal against the order rejecting the interim injunction application of the plaintiff has been rejected by the Hon'ble District Court, Sangli in Civil Miscellaneous Appeal bearing No. 69/2014 on 15/02/2020. Defendant 1 has completed the work of laying of the pipeline. Since, the works has been completed, there remains no purpose for the suit for perpetual injunction.

6 The application is opposed on the ground that, while the interim order of Hon'ble District Court, Sangli was enforce, the defendants have completed the work. On the basis of the fact that, the work has been completed the Miscellaneous Appeal was disposed of. Evidence is required to dispose of the suit. The application is misconceived. The

plaint can not be rejected on technical reasons. Hence, the application is opposed.

7 The application is styled and under Section 151 of the C.P.C. The prayer is that the suit be disposed of.

8 The main ground in the application is that, since the interim injunction application has been rejected, the suit no longer survives. The work against which interim injunction was sought has been completed. In any case, it may be said that the work against which the interim injunction was sought has been completed during the pendency of the suit. Merely, because the plaintiff is unsuccessful before the trial court /or the Hon'ble Appellate Court, has no relevance on the merits of the case. The suit for perpetual injunction has to be decided on evidence. I am not convinced with the application or the contest that once the action/purpose is completed vis-a-vis the interim injunction application /or the suit, the suit in all cases has to be disposed of as in fructuous. This is not a peculiar case. The power under Section 151 of the C.P.C has to be exercised sparingly to prevent the abuse of process of court or to meet the ends of justice. The right to prosecute the suit can not be curtailed under the inherent powers. If the application is viewed for the angle that the application is under Order 7 Rule 11 of the C.P.C, the provisions of Section 151 of the C.P.C can not be invoked. The prayer is to dispose of the suit and not to reject the plaint. For the above reasons the application sans merits. Costs follows the event. Hence, the following

### **Order**

The application stands rejected with costs.

Jath  
Date – 04/10/2024

(Sanjay P. Bunde)  
Jt. C.J.J.D, Jath