

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Writ Petition No.7147 of 2015

Sanjay Sudam Patil.

.. Petitioner.

Versus

Sharad Ukha Patil & Others.

.. Respondents.

Shri. P.A. Bhosle, Advocate, holding for Shri. Durgesh M. Pingale, Advocate, for petitioner.

Shri. A.S. Savale, Advocate, for respondent Nos.1 to 6.

CORAM: T.V. NALAWADE, J.

DATE : 31st AUGUST 2016

ORDER:

1) The petition is filed to challenge the order made by the Civil Judge, Junior Division, Shahada, District Nandurbar on Exhibit 77 in Regular Civil Suit No.5/2012. This application was filed by present petitioner, plaintiff for permission to amend the matter and he wanted to add additional relief that the order made by the learned Mamlatdar under the Mamlatdar's Courts Act, 1906 is not binding on the plaintiff. Heard both the sides.

2) The suit is filed for relief of declaration and also for injunction. It is the case of the plaintiffs that the defendant has no right at all to enter the land of the plaintiff on western side and he cannot use any portion of the land of the plaintiff as way or road. Relief of injunction is claimed in respect of that portion as the defendant is making attempt to use that portion. As such larger relief is claimed from the Civil Court, the provision of Section 22 of the Mamlatdar's Courts Act, 1906 shows that the orders made by the Mamlatdar are subject to decision of Civil Court. In view of this position of law, which is discussed by the learned Judge of the trial Court, this Court holds that it is not possible to interfere in the order made by the Civil Judge. If the plaintiff succeeds in getting such declaration that decision will cover everything including the order made by the Mamlatdar. The petition is disposed of as dismissed.

Sd/-
(T.V. NALAWADE, J.)

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