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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12355 OF 2015

1. Bhika Rambhau Gondhe PETITIONERS
Age - 45 years, Occupation - Agriculture

2. Dhondabai Namdeo Gondhe,
Age - 60 years, Occupation - Agriculture

3. Namdeo Rambhau Gondhe,
Age - 65 years, Occupation - Agriculture

Petitioners No.2 and 3 are represented
through their G. P. A. Holder,
Ramesh Namdeo Gondhe
Age - 27 years, Occupation - Agriculture

4. Sakharam Rambhau Gondhe,
Age - 55 years, Occupation - Agriculture

All R/o Khandarmalwadi, Taluka - Sangamner
District - Ahmednagar

VERSUS

1. Sandip Dnyandeo Bhujbal RESPONDENTS
Age - 38 years, Occupation - Agriculture

2. Yogesh Chabu Doke,
Age - 28 years, Occupation - Agriculture

3. Ganpat Rambhau Gondhe,
Age - 58 years, Occupation - Agriculture

Respondents No.1 to 3 All
R/o Khandarmalwadi, Taluka - Sangamner
District - Ahmednagar

4. The Tahasildar, Sangamner,
Tahasil Office, Sangamner,
Taluka - Sangamner, District - Ahmednagar

5. The Sub-Divisional Officer, Sangamner,
Sangamner Division, Sangamner ,
Taluka - Sangamner, District - Ahmednagar

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Mr. S. V. Deshmukh, Advocate for the petitioners
Mr. G. O. Wattamwar, AGP for respondent-State
Mr. K. N. Shermale, Advocate for respondent No.1
Mr. S. S. Jadhavar, Advocate for respondent No.2
Mr. S. K. Shinde, Advocate for respondent No.3

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 21st APRIL, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the parties.
2. The petitioners purport to be aggrieved by order dated 29th October, 2015 of Sub Divisional Officer, Sangamner refusing to grant stay upon an application for interim relief in RTS Appeal No.286 of 2015.
3. Relevant factual scenario, in short, appears to be that respondent No.1 had initiated proceedings bearing Rasta Case No.19 of 2013 under section 143 of the Maharashtra Land Revenue Code seeking a right of way. The same appears to have been allowed by Tahasildar, Sangamner under order dated 31st August, 2015 thereby granting right of way to respondent No.1.

Aggrieved thereby an appeal has been preferred by all the respondents in Rasta Case No. 19 of 2013, save one Yogesh Doke. Along with the appeal, the appellants had also filed an application for temporary relief, seeking stay to the order passed by the Tahasildar dated 31st August, 2015. Said application was rejected by the Sub Divisional Officer, under order dated 29th October, 2015. Against said order of refusal to grant stay to the order of Tahasildar passed by Sub Divisional Officer, miscellaneous appeal has been preferred by petitioners No.1 to 3 before Additional Collector, Ahmednagar. However, since it was considered that the appeal is not maintainable, present writ petition has been filed.

4. Learned advocates for respondents submit that interim relief granted by this court has been causing inconvenience and prejudice to the respondents, as their right of way is being getting hampered.

5. Learned advocate for the petitioners, however, submits that a right of way is claimed for the first time by respondent No.1 and very serious prejudice would be caused to the petitioners, if the same is allowed to stand and it is further being submitted that since the appeal is pending, which is continuation

of proceedings claiming right of way, the *lis* cannot be said to have been finally decided at this stage.

6. Having regard to aforesaid submission, the situation can be resolved by passing an order directing the appellate authority to decide RTS Appeal No.286 of 2015 filed against order dated 31st August, 2015 passed by Tahasildar, expeditiously, preferably within a period of one month, by keeping the interim order passed by this court operating till disposal of the appeal.

7. As such, the Sub Divisional Officer, Sangamner to decide on RTS Appeal No. 286 of 2015 as expeditiously as possible, preferably within a period of one month from the date of receipt of writ of this order. During pendency of the appeal, the interim relief, as granted by this court would continue to operate.

8. Writ petition stands allowed accordingly. Rule is made absolute in aforesaid terms.

[SUNIL P. DESHMUKH, J.]