

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 5679 OF 2017

Shrirang Dadu Pawar & Ors. ... Petitioners
Vs.
Gramsevak & Ors. ... Respondents

Mr. Vikas B. Shivarkar, Advocate for the petitioners.
Mr. Vishwajeet V. Mohite, Advocate for respondent nos. 1 and 2.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **27th June, 2017.**

P.C.:

Rule. Rule made returnable forthwith. By consent, this Petition is heard finally and decided at the stage of admission.

2. This Writ Petition is directed against the order dated 27th April, 2017 passed by the learned District Judge, Karad dismissing Miscellaneous Civil Appeal No. 97 of 2016 thereby confirming the order dated 21st November, 2016 passed by 5th Joint Civil Judge Junior Division, Karad in Regular Civil Suit No. 410 of 2016. The plaintiffs/petitioners have filed Regular Civil Suit for perpetual injunction against respondent nos. 1 and 2, who are the members of Gram Panchayat of Village Jakhinwadi, Taluka Karad, District Satara and respondent no. 3/one private party that the respondents/original

defendants shall not construct especially a wall and the road, which is available to the petitioners/plaintiffs, should not be closed and they should not disturb the petitioners from the use of the said road.

3. The learned counsel for the petitioners has submitted that the petitioners have been enjoying the west side of the said road since last many years, however, the respondents collusively have decided to construct a compound wall for the kitchen of the auditorium which was constructed by Gram Panchayat. It is further argued that earlier a suit was filed between the respondents and other parties in the year 1961 and in the earlier suit, a settlement has taken place wherein the said land was shown as a road available for the public use and thus, the petitioners have every right to use the said land as access and which is going to be closed because of the construction.

4. The learned counsel for the respondents supported the orders passed by the Courts below and has submitted that the petitioners have no right over the said property. The auditorium is constructed for the public purpose and public use, so the construction of the wall or any construction for that auditorium is not going to cause any hindrance or any disturbance to the access of the petitioners. He

further argued that other roads are available to the petitioners.

5. Heard the submissions. Perused the impugned orders passed by the Courts below. The reasons given by both the Courts are detailed. It is specifically observed by the learned Judges that the petitioners have failed to establish the case that there was only way as access to their property. It is also observed that other than that there are other access to their respective properties. Under such circumstances, it appears that *prima facie* no case is made out. The view taken by both the Courts cannot be interfered with. I am not inclined to extend the status quo order passed on 27th April, 2017 by the Appellate Court. Hence, Writ Petition is dismissed.

6. The learned counsel for the petitioners orally prays for stay of operation of this order for four weeks.

7. Considering the merits of the matter, I am not inclined to grant stay to this order. Order accordingly.

(MRIDULA BHATKAR, J.)