

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

WRIT PETITION NO. 8314 OF 2018

BHUSAHEB DAGADU KAPSE AND OTHERS
VERSUS
PRABHAKAR SHANTWAN KAPSE AND OTHERS

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Advocate for Petitioners : Mr. Manoj Dond Patil h/f C K Shinde

Advocate for Respondents 1-12 : Mr A S Gandhi

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CORAM : N.M. JAMDAR, J.

Dated: November 27, 2018

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PER COURT :-

The petitioners have challenged the concurrent judgment and orders passed by the learned Civil Judge and the learned District Judge granting injunction against the petitioners-defendants in favour of the respondents-plaintiffs.

2. The learned counsel for the petitioners submits that both the Courts were in error in not considering that the map produced by the respondents-plaintiffs does not show any road and that no encroachment is caused by the petitioners. It is contended that map

produced by the respondents-plaintiffs is not reliable.

3. The respondents-plaintiffs have produced and relied upon the map prepared by the Government authorities. The petitioners have not produced any documentary evidence to counter the same. As regards the road, the learned counsel for respondents has pointed out the map, which shows the road and respondents-plaintiffs have also given an undertaking that use of the road by the petitioners is not being objected. Taking into consideration this position, both the Courts have granted an order of injunction. There is no perversity in the use of discretion by the both the Courts. Writ petition is rejected.

(N.M. JAMDAR, J.)

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