

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2260 OF 2015**

Narayan Balwant Gurav

... Petitioner

Vs

Shrikant Vishwasrao Chavan & Ors.

... Respondents

Mr. Sharad S. Suryawanshi, Advocate for the Petitioner.

Mr. Kiran A. Nikam, Advocate for Respondents No. 1,2,3,11,13
& 15.

CORAM : SANDEEP K. SHINDE J.

DATE : June 18th, 2019

P.C. :

1. Heard counsel for the parties.
2. Petitioner instituted Special Civil Suit No. 965 of 2012 in the Court of Civil Judge, Senior Division, Satara inter alia challenging the order dated 02.04.2012 passed by the Tahsildar, Koregaon, passed in the proceedings under Section 5 of Mamlatdars Court Act, 1906. Pending suit, relief/order to restrain defendants no. 7, 8 and 10 from using the suit, way, passing through Survey No. 60/2 was sought. Learned Judge granted the relief and restrained defendants no. 7, 8 and 10 from using the suit way by order dated 01.03.2012. In the

appeal, at the instance of defendants no. 7, 8 and 10, the Appellate Court by order dated 24.06.2014 allowed the appeal and set aside the order dated 01.03.2012 passed below Exhibit 5 in the said suit.

3. Aggrieved by the order dated 24.06.2014, the plaintiff has preferred this petition under Article 227 of Constitution of India.

4. It appears that the suit way, passing through Survey No. 60/2 is the only way available to the aggrieved defendants being access to their plot bearing no. 57/3B.

5. It is made clear that since parties to the suit are in the process of leading evidence, propriety demands not to render the decision on the basis of material available on record, excluding evidence led by the parties. Even otherwise defendants are using the suit way since 2014.

6. Since it is informed across the bar that the suit is at the stage of leading evidence and therefore the hearing of the Regular Civil Suit No. 965 of 2012 pending on the file of Civil Judge, Senior Division, Satara is expedited.

7. With the aforesaid observations, writ petition is disposed of.

(SANDEEP K. SHINDE, J.)