

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.4786 OF 2014

Shri Gousahmed Abbas Sutar ... Petitioner

Vs

Shri Vishwanath Ganpati Gove and Anr. ... Respondents

...

Mr. Sarthak Diwan i/by Ashutosh M. Kulkarni for the Petitioner.
None for the Respondents

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 24, 2019

P.C. :

Heard learned counsel for the petitioner.

2 The suit instituted by the petitioner (plaintiff no.2) and the respondent no.2 (plaintiff no.1) being Regular Civil Suit No.282 of 2007 against respondent no.1 (defendant no.1) for the perpetual injunction was decreed by the learned Civil Judge, Junior Division, Miraj on 31st January, 2013 whereby the defendant was restrained from interfering with the possession and his access to the public road. The learned Appellate Court at the instance of respondent no.1 in Regular Civil Appeal No.140 of 2013, pending appeal stayed the operation of the decree vide order dated 26th April, 2014. It is against

this order, plaintiff no.2 has preferred this Writ Petition under Article 227 of the Constitution of India.

3 That on 8th May, 2014 notices were issued to the respondents and parties were made aware that the petition may be disposed of finally at the stage of admission. Parties were directed to maintain status-quo as on that date. Office remark shows that respondent no.1 is duly served however, till date he has not caused his appearance.

4 Heard learned counsel for the petitioner.

5 That in view of the order, directing parties to maintain status-quo has been passed in May, 2014 and in view of the fact that Regular Civil Appeal No.114 of 2013 is pending before the District Court at Sangli, parties shall abide by the order passed by this Court on 8th May, 2014 till disposal of the Regular Civil Appeal No.114 of 2013. It cannot be ignored that decree of injunction has been drawn in favour of the petitioner and if the decree is stayed pending Regular Civil Appeal, the petitioner would not be able to access public road through 15 ft. wide road, which is abutting

petitioner/plaintiff and respondent/defendant properties. The petition is, therefore, allowed in the aforesaid terms and disposed of accordingly.

(SANDEEP K. SHINDE, J.)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1380 OF 2019
IN
WRIT PETITION NO.4786 OF 2014**

Shri Gousahmed Abbas Sutar ... Applicant

Vs

Shri Vishwanath Ganpati Gove and Anr. ... Respondents

...

Mr. Sarthak Diwan h/for Mr. Ashutosh M. Kulkarni for the Applicant.
None for the Respondents

CORAM : SANDEEP K. SHINDE J.

DATE : JUNE 24, 2019

P.C. :

Sole petitioner passed away on 7th February, 2019. This application is filed to bring his legal representatives on record. Delay occurred in filing this application is condoned. For the reasons stated in the application, application is allowed in terms of prayer clauses (b) and (c). Consequential amendment to be carried out forthwith. Application is disposed of.

(SANDEEP K. SHINDE, J.)

