

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

WRIT PETITION NO.106 OF 2020

Smt. Sharda Bhagirath Nagre & Ors. Petitioners

Vs.

Shri. Hanuman Vishnu Gandal & Ors. Respondents

Mr. Chetan S. Damre for Petitioners.

Mr. Girish R. Agrawal for Respondent Nos. 1 to 6.

Coram : NITIN W. SAMBRE, J.

Date : 12TH FEBRUARY, 2021

P.C.:

1. Heard.

2 Regular Civil Suit No. 41 of 2014 came to be initiated by the Respondents- Plaintiffs seeking an injunction. In the said suit, an application Exhibit 5 came to be moved, thereby restraining the Petitioners-Defendants from creating approach way from the Western boundary of Gat No.27. The said order was questioned by the Petitioners-Defendants in an appeal, which came to be dismissed on 10th July 2019. As such, this petition questioning both these orders.

3 The submissions are, already there exist an alternate right of way. Apart from above, the Petitioners-Defendants were not a party to the earlier civil proceedings being Regular Civil Suit No.157 of 2010 and that being so, the said order did not bind on the Petitioners. It is also claimed that the Village Dispute Resolution Committee has already observed that there exists an alternate way to the Respondents and that being so, the impugned order is liable to be set aside.

4 Learned counsel for the Respondents supported the order impugned.

5 What can be noticed from the record is that there are concurrent findings of fact recorded and at a stage of proceedings against the Petitioners. Apart from above, even if the Petitioners are not a party to the earlier suit being Regular Civil Suit No. 157 of 2010, the fact remains that the said judicial pronouncement can be taken into account for the purpose of deciding an injunction.

6 As both the Courts below while granting injunction have recorded findings about the existence of way in between the boundary of Gat Nos. 27 and 28, in my opinion the order impugned is in tune to the evidence available on record.

7 No interference is called for. Petition fails. Dismissed.

8 Considering the policy of the expeditious disposal of more than five years suits, parties are at liberty to approach the trial Court with a prayer for expeditious disposal of the suit.

(NITIN W. SAMBRE, J.)