

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO.10187 OF 2022

ABDUL RAUF ABDUL AJIJ AND ANOTHER
VERSUS
STATE OF MAHARASHTRA THROUGH
COLLECTOR OFFICE AND OTHERS

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Advocate for Petitioners : Mr. Ravindra Vitthal Gore
AGP for Respondent / State : Ms. G.L. Deshpande
Advocate for Respondent No.5 : Mr. Sandip R. Andhale

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CORAM : SANDEEP V. MARNE, J.

DATE : 11-10-2022

PER COURT :

. It is undisputed that the subject matter of the suit instituted by the petitioners – plaintiffs is the boundary between the properties of two plaintiffs having length of about 26 feet and that the same also forms part of the proceedings filed before the Tahsildar under Section 143 of the Maharashtra Land Revenue Code. The Tahsildar has already passed an order granting right of way to respondent no.5 over the very same boundary which forms subject matter of the suit filed by the plaintiffs. The plaintiffs have independently challenged the order passed by the Tahsildar and the proceedings are pending.

2. In such circumstances, there is no *prima facie* case

existing in favour of the petitioners to seek any interim injunction against respondent nos.5 and 6 to block that right of way. The Trial Court has already recorded a finding that the petitioners have not been able to prove existence of any alternate access road for respondent nos.5 and 6.

3. In the light of the position emerging before this Court, I do not find that any error is committed by the Trial Court refusing the injunction or by the Appellate Court rejecting the Misc. Civil Appeal filed by the petitioners.

4. The petition being devoid of merits is liable to be dismissed and is dismissed without any order as to the costs.

(SANDEEP V. MARNE, J.)