

WRIT PETITION NO.2925 OF 2023

Versus

Raju Ratansing Gomladu And Others ...Respondents

Mr. S.N. Morampalle, AGP for State.

Mr. Ajit Gaikwad, Advocate for respondent No. 1.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 13th MARCH, 2023

ORDER :

1. The petitioners are aggrieved by order dated 06.03.2023 passed by Ad-hoc District Judge-4, Aurangabad below Exhibit-5 in Miscellaneous Civil Appeal No. 104/2022.

2. The petitioners/original plaintiffs filed Regular Civil Suit No. 473/2022 seeking a declaration that order passed by Tahsildar, Khultabad in Proceeding No. 107/2018, be declared null and void as the Tahsildar while passing the said order has exceeded his jurisdiction. Along with the suit, application Exhibit-5 is filed seeking stay to the order passed by the Tahsildar. The application came to be rejected by the Trial Court vide order dated 13.06.2022.

3. Being aggrieved, petitioners filed Miscellaneous Civil Appeal No. 104/2022 in the District Court, which after hearing the parties is dismissed. Hence, the present petition.

4. Heard the learned advocate for the petitioners, learned advocate for respondent No. 1 and learned Assistant Government Pleader for State. Perused the grounds in the petition, annexures thereto and documents placed on record.

5. On going through the impugned order passed by the Trial Court as well as by the Appellate Court, it is evident that the Tahsildar, Khultabad, before giving approach way to the respondents visited the spot on 13.07.2021 and inspected the spot. In the said inspection it was found that the petitioners had destroyed the approach way and Tur crops were planted on it. The agricultural land of respondent No. 1 was found barren as there was no approach way to his land. The petitioners were found making obstruction and interference to respondent No. 1 for using the way, which was granted as per the order dated 28.10.2021. The Tahsildar directed the petitioners to give approach way to respondent No. 1 as his land was lying barren and as the petitioners had destroyed the earlier approach way

and using the said land for sowing crops.

6. In these circumstances, the Appellate Court was justified in coming to a conclusion that the petitioners have failed to prove prima facie case and balance of convenience in their favour and no irreparable loss is likely to be caused to the petitioners if injunction is refused. Considering the reasons assigned by the Trial Court as well as the Appellate Court, application Exhibit-5 of the petitioners is rightly rejected. No case is made out by the petitioners for interference in the extraordinary writ jurisdiction. The writ petition being devoid of merit is dismissed.

[NITIN B. SURYAWANSHI, J.]