

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9971 OF 2022

1. Vikram Shankar Marge
 2. Yogesh Sudamrao Ghamat
- Petitioners

Versus

1. Vashishtha Shahurao Shinde
 2. The Circle Officer,
Revki Revenue Circle, Revki,
Tq. Georai, Dist. Beed.
 3. The Executive Engineer,
Maharashtra Rural Road Development
Organization, Beed,
Tq. and Dist. Beed.
- Respondents

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Mr. Vilas P. Savant, Advocate for Petitioners
Mr. S.R. Yadav Lonikar, AGP for Respondent Nos.2 and 3
Mr. Ameya Sabnis, Advocate h/f Mr. P.S. Dikle, Advocate for
intervenor

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th JUNE, 2023

ORDER :

1. Petitioners filed Application Exhibit-59 in Regular Civil Suit No.276 of 2022, seeking *status quo* to be maintained by the defendants in respect of work from Sakhalī No. Km 1/540 to Km 1/100 in the land of the petitioners/plaintiffs till the temporary injunction application of the petitioner is decided.

2. The petitioners have filed suit for permanent injunction restraining the respondents/defendants from constructing of road through their field by challenging the order passed by the *Mamlatdar* under Section 5(2) of Mamlatdars' Courts Act, 1906.

3. In the suit, temporary injunction application is filed, which is yet to be decided. Since the construction of the road was undertaken by the respondents, the petitioners moved Application Exhibit-59. It is the grievance of the petitioners that the said application is not decided and it is adjourned and kept after two months. Respondents are carrying out the road construction, and therefore, the Trial Court ought to have granted *status quo* in favour of the petitioners. Hence, the present petition.

4. Heard the learned advocate for the petitioners, learned advocate for the intervenor and the learned Assistant Government Pleader for respondent Nos.2 and 3. None present for respondent No.1. Perused the writ petition memo and annexures thereto.

5. Admittedly, the work of construction of village road under the *Mukhyamantri Gram Sadak Yojana* is undertaken by the respondents. It is the grievance of the petitioners that their standing sugarcane crop was damaged and the road is proceeding from the boundaries/*bandh* of their field. Further contention is, the land of the petitioners is not acquired and no compensation is paid to the petitioners.

6. Mr. Sabnis, learned advocate for intervenor strongly opposed the petition contending that in terms of Section 41(ha) of the Specific Relief Act, no injunction is liable to be granted for stalling infrastructure project. Learned Assistant Government Pleader opposed the petitioner by adopting the arguments of learned advocate Mr. Sabnis.

7. It appears from the record that the public road is being constructed from the boundary of the field of the petitioners. The petitioners will be entitled to claim compensation for damages of their sugarcane crops, and for the land owned by the petitioners, which has gone into for construction of the road, however, in view of Section 41(ha), the petitioners are not entitled for stay to such construction of road.

8. Learned advocate for the petitioners urged that *status quo* order granted by this Court is operating in their favour since 27/09/2022, the same may be continued for a period of one week with a direction to the Trial Court to decide their application for temporary injunction.

9. The writ petition is disposed of by directing the Trial Court to decide the temporary injunction application Exhibit-59 within one week from the date of receipt of the writ of this order. Till the decision of the Trial Court, *status quo* order shall continue to operate.

10. The Trial Court shall decide the temporary injunction application Exhibit-59 on merits by keeping in mind the statutory provision of Section 41(ha) of the Specific Relief Act.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane