

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.11338 OF 2023

**SOMNATH RAMRAO JADHAV
VERSUS
THE SUB DIVISIONAL OFFICER, VAIJAPUR AND OTHERS**

...
Advocate for Petitioner : Mr. Laxman K. Pradhan
AGP for Respondent Nos.1 to 4 : Mr. S. N. Kendre
Advocate for Respondent Nos.5 to 7 : Mr. R. V. Gore
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 12th SEPTEMBER, 2023

PER COURT :

1. Petitioner/original plaintiff in Regular Civil Suit No.242/2023, is aggrieved by the rejection of his temporary injunction application by the trial Court and confirmation of that order by the appellate Court.

2. Respondent Nos.5 to 7/defendant Nos.1 to 3 approached the Tahsildar, Gangapur, under Section 143 of the Maharashtra Land Revenue Code, 1966, and prayed for right of way to approach their respective fields. Tahsildar, after conducting site inspection and hearing the parties, granted right of cart way to respondent Nos.5 to 7 from the boundary of the land of the petitioner. While passing the said order under Section 143, the Tahsildar has also observed that, if the earlier access road is re-opened, then respondents shall not be entitled to use the way

granted under Section 143. Petitioner challenged the order passed by Tahsildar, by filing R.C.S. No.242/2023. Along with the suit, application Exhibit-5 is filed. Trial Court, after hearing the parties, rejected the application Exhibit-5 and the said order is confirmed by the appellate Court. Hence, the present petition.

3. Heard learned advocate for petitioner, learned advocate for respondent Nos.5 to 7 and learned Assistant Government Pleader for respondent Nos.1 to 4. Perused the writ petition memo, annexures thereto, the impugned order and affidavit-in-reply filed by respondent Nos.5 to 7 as well as citations relied upon by the respective parties.

4. It is a matter of record that order under Section 143 is passed by the Tahsildar, Gangapur, in favour of respondent Nos.5 to 7/defendant Nos.1 to 3, thereby granting them cart way from the boundary of the land of petitioner/plaintiff. The said order is passed after conducting site inspection panchanama and hearing the parties. It is recorded in the panchanama that, earlier access way (वहिवट रस्ता) was permanently closed because of the percolation tank and therefore, this was found to be the only appropriate access way which can be granted to respondent Nos.5 to 7.

5. Trial Court as well as the appellate Court, by way of well

reasoned orders, have rejected the temporary injunction application filed by the petitioner. Concurrent findings of fact are recorded by both the Court, are not liable to be interfered with in exercise of extraordinary writ jurisdiction. Writ petition being devoid of merit is dismissed.

6. Needless to state that, these observations are *prima facie* and shall not influence the trial Court while deciding the suit on merits.

(NITIN B. SURYAWANSHI, J.)