

AGK

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

WRIT PETITION NO.2253 OF 2021

Haribhau Dharma Kamble ... Petitioner

V/s.

The State of Maharashtra & Anr. ... Respondents

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WITH

WRIT PETITION NO.2255 OF 2021

Haribhau Dharma Kamble ... Petitioner

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. Javed Hussein i/by Hussein & Co. for the petitioner
in both the WPs.

Mr. C.D. Mali, AGP for respondent No.1/State.

Mr. Khateeb Vakeel for respondent No.2 in both WPs.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 21, 2023

RC.:

1. The writ petitions arise out of applications under Order 39 Rules 1 and 2 of the Civil Procedure Code, 1908 whereby both the applications filed by the plaintiff and defendant seeking injunction against each other in relation to road has been granted by the Trial Court in favour of the petitioner and appeal against the said order has been allowed by the Lower Appellate Court.

2. On perusal of the order of Mamlatdar, it appears that he has

relied on spot panchanama. On perusal of the spot panchanama, it appears that he has observed that there is no road in existence over disputed property.

3. This Court on 28 June 2021 protected the petitioner by granting stay to the notice dated 18 June 2021. Said ad-interim relief is in force till today. Therefore, it would be in the interest of justice that by continuing the order, the Trial Court need to be directed to decide the suit. Hence, following order:

- a) By way of interim relief, order dated 28 June 2021 shall remain in force till the final disposal of suit;
- b) The Trial Court is directed to decide the suit within six months from today.

4. Both the writ petitions stand disposed of in above terms. No costs.

(AMIT BORKAR, J.)