



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
NAGPUR BENCH : NAGPUR

Writ Petition (WP) No. 31 of 2023

Santosh Prakash Satav and others  
**Versus**  
Tukaram Namdev Sadatkar and others

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

Shri U.J.Deshpande, Advocate for the petitioners.  
Shri Rohit Joshi, Advocate for the respondents.

**CORAM : ANIL S. KILOR, J.**  
**DATED : 11<sup>th</sup> SEPTEMBER, 2023.**

Heard.

2. The Tehsildar, Nandura vide order dated 28<sup>th</sup> December, 2020 granted approach way to the petitioners from the field of respondent no.1 Tukaram. Thereafter, the respondents filed a suit for declaration and permanent injunction. The declaration sought by the plaintiffs/respondents was in respect of the correctness of the order passed by the Tehsildar.

3. The respondents alongwith the suit filed application Exhibit 5 for temporary injunction, which came to be allowed by the trial Court on 30<sup>th</sup> September, 2021 and it was upheld by the learned

Lower Appellate Court vide judgment and order dated 18<sup>th</sup> July, 2022 passed by the Adhoc-District Judge-1, Malkapur in Misc. Civil Appeal No. 9 of 2021, which is the subject matter of the present writ petition.

3. Learned counsel for the petitioner submits that once the approach way has been granted by the Tehsildar under Section 143 of the Maharashtra Land Revenue Code, 1966 ( in short hereinafter referred as 'MLR Code, 1966') granting temporary injunction amounts to grant of final relief. He, therefore, submits that the impugned order passed by the learned trial Court below Exhibit 5 and the impugned judgment and order passed by the learned Appellate Court upholding the order of grant of temporary injunction, are illegal and liable to be quashed and set aside.

4. Shri Joshi, learned counsel for the respondents submits that it was the third attempt of the petitioners to seek approach way under Section 143 of MLR Code, 1966.

5. It is submitted that at the time of spot inspection, the respondents were not present and no notice was served upon the respondents. He, therefore, submits that learned trial Court in paragraph 17 of the impugned order has rightly considered the case of the respondents/plaintiffs and granted temporary

injunction which has been upheld by the lower Appellate Court, as it was found just and proper.

6. Shri Joshi, learned counsel for the respondents has further pointed out that the matter before the trial Court is fixed for the cross-examination of the plaintiffs by the petitioners/defendants. However, from last 14 months, the petitioners have failed to cross-examine the plaintiff.

7. In the light of rival contentions of the parties, I have perused the record and the impugned judgment and order.

8. The learned trial Court on 30<sup>th</sup> September, 2021 granted the temporary injunction in favour of the plaintiffs and since then it is in operation from last two years.

9. The temporary injunction was granted only on the ground that it is necessary to find out whether the proper opportunity was granted to the plaintiffs before passing the impugned order or notices were served upon them and further the petitioners have any right to claim any approach way from the field of the plaintiffs.

10. The proceedings under Section 143 of the MLR Code, 1966 is the summary proceedings and in

the suit, the petitioners can establish their right by leading necessary evidence.

11. The petitioners can bring on record the fact that there is no alternative way available to the petitioners to approach their field and therefore, the way granted by the Tehsildar under Section 143 of MLR Code, 1966 is just and proper, by leading evidence.

12. However, instead of cross-examining the plaintiffs and leading evidence in support of their claim, the petitioners are trying to prolong the suit by adjourning the suit.

13. In the circumstances, I am of the opinion that no perversity or illegality has been committed by the both the Courts below and ends of justice would be subserved, if the trial Court is directed to expedite the trial. Accordingly, the writ petition is dismissed.

14. The learned trial Court is directed to expedite the suit and decide the same within four months from the next fixed date.

15. Both the parties have undertaken to co-operate the learned trial Court in disposing of the suit, within stipulated period.

[ANIL S. KILOR, J.]