



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2689 OF 2024

Shaikh Pasha Shaikh Rahim
VERSUS
Padminbai Laxman Girgune And Others

• Mr. V. V. Bhavthankar, Advocate for the Petitioner

CORAM : R.M. JOSHI, J
DATE : NOVEMBER 13, 2024

PER COURT :

1. This Petition takes exception to order of rejecting of application Exh. 33 filed by Defendant in RCS No. 173/2018, whereby the additional issues were sought to be framed.

2. learned Counsel for the Petitioner submits that Petitioner/Original Defendant has filed written statement and specifically denied the contention of the Plaintiff that he is using way in question for last 30 years. Thus, it is his contention that there has to be a specific issue in this regard so also issue as to whether Plaintiff proves that he has esamentary right of way over suit land.

3. None for the Respondents though served.
4. Learned Trial Court has framed following issues:
 1. Whether the plaintiff proves that they have right of way over the suit lands?
 2. Whether the plaintiff is entitled for the relief of injunction?
 3. Whether the plaintiff is entitled for relief declaration?
 4. What Order and Decree?
5. Issue no. 1 is wide enough to cover the case of Plaintiff as well as Defendant. Needless to say that initial burden is on the Plaintiff to prove his right of way over the suit land. This Court finds no reason to cause interference in the impugned order.
6. In view of above observations, Petition stands disposed of.

(R.M. JOSHI, J.)