



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

908 WRIT PETITION NO. 9160 OF 2024

Santosh Govinda Zendu Savale

VERSUS

Ramdas Kautik Nhavi Savale And Others

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Advocate for the Petitioner : Mr. Patil Atmaram J.
AGP for Respondents-State: Ms. Anuradha S. Mantri

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 27, 2024

PER COURT :-

1. The learned counsel appearing for the petitioner/original defendant No. 1 submits that the Trial Court has granted an injunction against the defendant for using the road from the common dike of Block No. 224 and 223 until further orders. This order of the Trial Court has been upheld by the Appellate Court by dismissing the appeal filed by the defendant.
2. In the instant case, the suit has been filed by the plaintiff against the defendant for permanent injunction restraining the defendant from creating a new way from the common bandh of Block No. 224 and 223, along with other reliefs. In the said suit, the order of injunction is passed by the Trial Court and confirmed by the Appellate Court.
3. Upon perusal of the record, it appears that the Trial Court held that the plaintiff has a prima facie case and that the balance of convenience also lies in favor of the plaintiff. The Appellate Court held that, as the inspection was conducted based on the application of the defendant, the alleged way asserted by the defendant was not found to exist during the

spot inspection. The defendant has not produced other evidence to show the existence of the said way. On the contrary, the plaintiff has been able to establish an alternate way for the defendant to approach their land. As such, the injunction is granted in favor of the plaintiff.

4. Since the findings of the Trial Court and Appellate Court are prima facie and are based on the material available on record, this Court would not interfere with the impugned order. As such, the petition is dismissed.

(ARUN R. PEDNEKER, J.)

vj gawade/-.