



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO. 8813 OF 2024

CHANDAR KISAN JAGTAP AND OTHERS

....Petitioner

VERSUS

STATE OF MAHARASHTRA THROUGH HONBLE DISTRICT MAGISTRATE AND
OTHERS

.....Respondent

.....

Advocate for the Petitioner : Mr. Sisodiya Ashutosh C.
AGP for Respondent/State : Mrs. K.R. Jamdhade

.....

CORAM : ARUN R. PEDNEKER, J.

Dated : August 21, 2024

PER COURT :-

1. Heard. The petitioners/plaintiffs challenge the order dated 1.11.2022 passed by the Tahsildar Shrigonda, District Ahmednagar, granting road to the respondents/defendants in Rasta Case No. S.R./Vahiwat/24/2021 by filing R.C.S. No. 466/2022 in which application filed by the petitioners for stay to the order of Tahsildar is rejected. The appeal filed against the said order is also dismissed by the Appellate Court. Hence, the present writ petition.

2. The learned counsel for the petitioners submits that Tahsildar has no power to grant road and has placed reliance on the **judgment dated 12.10.2011 delivered by this Court in the case of Krushna s/o. Damaji Choudhari & Anr. Vs. Additional Commissioner, Nagpur Division, Nagpur and others** to contend that the Tahsildar exercising the powers under section 143 of MLR Code cannot be treated as such under section 5 of of the

Mamlatdars Courts Act and the Tahsildar cannot direct removal of the obstruction. He further submits that there are trees and bandhs, which cannot be removed by the Tahsildar.

3. Having considered the submissions and perusal of the record, I find that while maintaining the order of the Trial Court, the Appellate Court has held that prima facie plaintiffs have failed to prove the existence of alternative road and existence of trees on the road sanctioned by Tahsildar. The Appellate Court also held that defendant Nos. 3 to 7 will suffer irreparable loss, if they are restrained from approaching their own land Gat No. 115/1/1. The Appellate Court also held that plaintiff will not suffer irreparable loss if the injunction application is allowed. The impugned orders passed by the Trial Court and Appellate Court arise out of an interim application filed for injunction in a civil suit. Since the orders passed are of interim in nature, no case is made out to interfere with the same. In view of the same, the writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/