

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
REVIEW PETITION NO. 92 OF 2024
IN
WRIT PETITION NO.9329 OF 2021

Pravin Suryakant Shinde And Anr .. Petitioners
Versus

Prakash Namdev Shinde And Ors .. Respondents

WITH
INTERIM APPLICATION NO.11002 OF 2024
IN
REVIEW PETITION NO. 92 OF 2024

Pravin Suryakant Shinde And Anr .. Petitioners
Versus

Prakash Namdev Shinde And Ors .. Respondents

Mr.Abhishek Deshmukh for the Petitioner in RPW.
Mr.Dilip Bodake for Petitioner in Writ Petition.

CORAM: BHARATI DANGRE J.
DATED : 14th AUGUST, 2024

P.C:-

1. The Review Petition is filed, being aggrieved by the order passed on 21/12/2021, when a challenge was raised to the order of the Appellate Court dated 9/11/2021, in Miscellaneous Civil Appeal No. 79 of 2021, by which the injunction granted by the Civil Judge, Junior Division, Satara, is reversed and the Appeal was allowed.

I have heard the learned counsel Mr. Abhishek Deshmukh for the Review Petitioners and Mr. Dilip Bodake for the Respondent.

2. The background facts would reveal that the Petitioners, the original Plaintiffs had filed a Regular Civil Suit for permanent injunction by alleging that the 'South bound concrete road' described as 'Gram

Panchayat Road' is the only way of access to the residents residing on the southern side and when application was filed for temporary injunction, the trial Judge, recording that it is a village road and it provides access to the villagers, granted temporary injunction.

On an Appeal being filed, the learned Judge expressed a doubt about the said road being a village road, by mentioning that in Form no.8 in respect of the old Gram Panchayat Property No.285, which is subsequently numbered as Property No.302, where it is described as 'Sarvajanik Dakshinottar Rasta', the Gram Panchayat record do not find mention about existence of this road, and therefore, the plaintiff was held to be not able to establish a *prima facie* case.

My attention was invited to the resolution passed by the Gram Panchayat, where it is clearly recorded that the road does exist from 1970 to 2010, as a village road. However, from the year 2011, its existence has not been carried forward in the record of Gram Panchayat, by a technical mistake and this mistake was sought to be rectified.

In the wake of the aforesaid, it was held that the order passed by the Appellate Court in the wake of the resolution passed by Gram Panchayat is not sustainable and it was quashed and set aside by restoring the injunction in favour of the Plaintiff.

3. The present Review Petition is filed, by the Sarpanch of Village Sangam Mahuli, as well as the Village Development Officer, who were not the party to the original Suit nor they are party to the Appeal filed by the original Defendant before the Appellate Court, and they are aggrieved by the order passed on 21/12/2021, directing Gram Panchayat to take necessary steps to remove the obstruction, if any, to permit a free access to the villagers, and the Review Petition is restricted for the directions given in paragraph no.4 of the order.

4. On hearing Mr. Deshmukh, and on perusal of the impugned order as well as the Review Petition, which has limited scope, being to ascertain whether there was an error, apparent on the face of record, which the petitioners have failed to establish and pertinent to note that the Review Petition is filed by the strangers to the proceedings and the argument advanced is that they are aggrieved by the directions issued to the Gram Panchayat for removing the obstruction, if any to avail free access.

Since no error is pointed out in the substantive part of the order dated 21/12/2021, and merely on the account of the ancillary direction to the Gram Panchayat, in my view would not justify exercise of power of review, once it is recorded that the reversal of the injunction order granted by the Civil Judge, on 16/06/2021, by the Appellate Court on 9/11/2021, was not based on a sound reasoning and could not be sustained and hence, the injunction granted has been directed to be restored and as a consequence thereof, it is directed that the Gram Panchayat shall render assistance by removing the necessary encroachment.

There is no reason for the Review Petitioners, without raising challenge to the merits of matter, to seek review of the said direction, as no error is pointed out to me.

Hence the Review Petition is dismissed.

(BHARATI DANGRE, J.)