

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No.12630 of 2024

Shri Tukaram Nana Kambale & anr. ... Petitioners

V/s.

Shri Hindurao Malhari Ghodake and others ... Respondents.

Mr. H.V. Kode & Mr. J.S. Karnik	Advocate for the Petitioners
Mr. N.J. Patil i/b. Mr. Akshay Patil	Advocate for Respondent Nos. 1 to 7.

CORAM : S.M. MODAK, J

DATE : 02 December 2024.

P.C. :

Heard learned Advocate for the petitioners-plaintiffs and learned Advocate for the respondents-contesting defendants.

2. During the pendency of the suit, the plaintiffs could convince the trial Court and there was temporary injunction granted on 2 May 2023 not to disturb the plaintiff's possession or to encroach upon the suit property.

3. When the respondents-original defendants filed the Misc. Civil appeal, the appellate Court as per the order dated 22 August 2023 set aside the order and dismissed temporary injunction application. That is why the present petition.

4. The learned Advocate Shri Kode submitted that let this

petition be heard. There is one map on Page No.49. It is on the basis of measurement dated 28 May 2012. This suit is filed on the basis of alleged act of erecting of pole by encroaching on the plaintiffs' land. This is denied by the contesting defendants. During oral submissions, the learned Advocate submitted that there is open Government land situated in between the suit land and the defendant's land.

5. It is difficult to gather this fact on the basis of map on Page-49. If defendants want this submission to be considered by this Court, let them verify whether those documents were part of the record of the court below. Even the petitioners can also give instructions to their learned Advocate. If it is a part of the earlier record, either or all parties are at liberty to place all the documents which were filed before the Courts below.

6. Stand over to **7 January 2025.**

(S.M. MODAK, J.)