



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3659/2024

Narayan s/o Ramchandra Kayande and others
Vs.
Sheshrao s/o Sonaji Jadhav and others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. P.S. Sadavarte, Advocate for petitioners
Ms. Shamsi Haidar, AGP for Respondents / State

CORAM: N.R. BORKAR, J.

DATED : 28th JUNE, 2024

This petition challenges the judgment and order dated 27.03.2024, passed by the learned District Judge, Mehkar in Misc. Civil Appeal No. 10/2023.

2. The petitioners herein have filed a suit for declaration and injunction. The trial Court by order dated 12.07.2023 has rejected the application filed by the petitioners for the temporary injunction. The appeal was filed against the order of trial Court. By the order impugned, the learned District Judge has confirmed the order of trial Court. Hence, this petition.

3. The dispute between the parties is on account of right of way. There is an order of Sub-Divisional Officer in favour of the respondent No.5

under the Mamlatdars' Court Act in respect of which declaration is sought that the same is not binding on the petitioners.

4. The learned counsel for the petitioners submits that the trial Court as well as appellate Court erred in rejecting the application for temporary injunction by ignoring the fact that there is an alternative path way available to respondent No.5 to approach to his field.

5. I have perused the orders impugned. The trial Court has recorded prima facie finding that there is no alternative path way available to the respondent No.5 to approach to his field. The appellate court has confirmed the said finding. I am not inclined to interfere with the said finding in writ jurisdiction. The petition is dismissed. No costs.

6. Hearing of the suit is expedited.

(N.R. BORKAR, J.)