



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

924 WRIT PETITION NO. 2521 OF 2024

1. Sau. Vanmala Rajesh Koli
Age : 34 years, Occ : Household,

2. Rajesh Raghunath Koli
Age : 44 years, Occ : Agriculture,

Both R/o Punkheda, Tal. Raver,
Dist. Jalgaon.

..PETITIONERS

-VERSUS-

1. Ramdas Sakharam Patil
Age : 70 years, Occ : Agri.,

2. Aataram Sitaram Patil
Age : 60 years, Occ : Agri.,

3. Ratiram Sitaram Patil
Age : 58 years, Occ : Agril.,

Nos.1 to 3 R/o Punkheda,
Tal. Raver, Dist. Jalgaon.

4. Shantaram Sitaram Patil
Age : 55 years, Occ : Service
R/o At/Post. Bodwad, Tal. Bodwad,
Dist. Jalgaon.

5. Kailas Sitaram Patil
Age : 50 years, Occ : Agril.,
R/o Punkhed, Tal. Raver,
Dist. Jalgaon.

6. Pramila Ramesh Choudhry
Age : 65 years, Occ : Household,
R/o Nibhorasim, Tal. Raver,
Dist. Jalgaon.

7. Anandibai Rajaram Patil
Age : 80 years, Occ : Household,
8. Vasant Rajaram Patil,
Age : 65 years, Occ : Agri.,
9. Bhaurao Rajaram Patil
Age : 55 years, Occ : Agri.,
10. Ashok Rajaram Patil
Age : 55 years, Occ : Agri.,

Nos.7 to 10 R/o Punkhed, Tal. Raver,
Dist. Jalgaon.

11. Sugandhabai Prabhakar Patil
Age : 65 years, Occ : Household,
R/o Parle, Patondi, Tal. Muktainagar,
Dist. Jalgaon
C/o Vasant Rajaram Patil,
Punkhed, Tal. Raver, Dist. Jalgaon.
12. Santosh Tukaram Patil
Age : 51 years, Occ : Agri.,
13. Puroshottam Tukaram Patil
Age : 50 years, Occ : Agri.,
14. Bebabai Dhyaneshwar Patil
Age : 45 years, Occ : Agri.,

Nos.12 to 14 R/o Punkhed, Tal. Raver,
Dist. Jalgaon.

..RESPONDENTS

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Advocate for the Petitioners : Mr. Katneshwarkar P.R.
and Mr. Kazi Rahil Riyazoddin
Advocate for Respondent No. 1 : Mr. A.J. Patil

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CORAM : ROHIT W. JOSHI, J.

DATE : 25th JULY, 2025

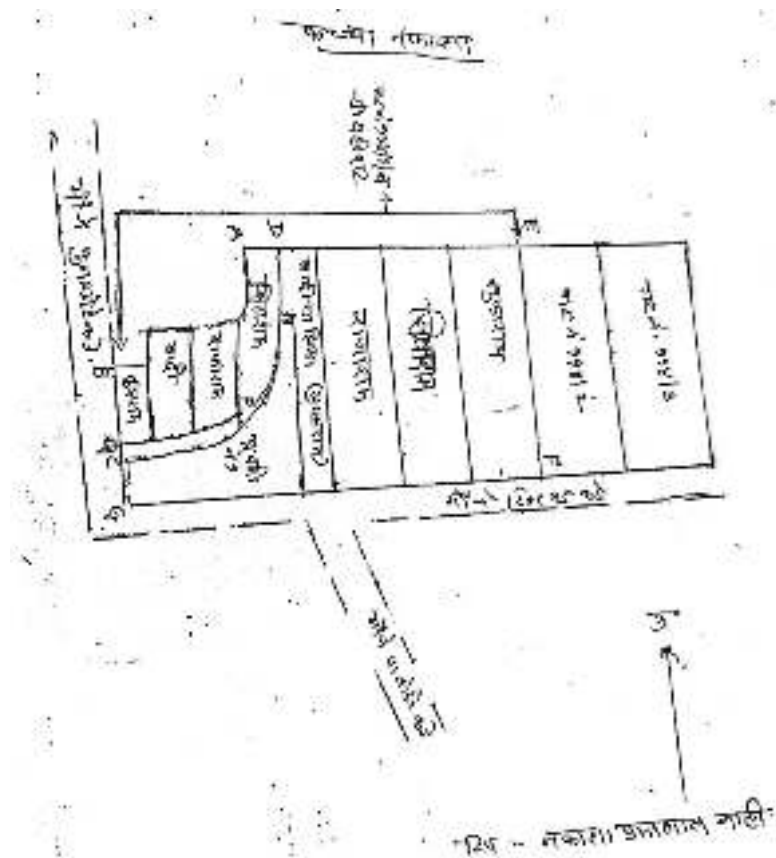
ORAL JUDGMENT :

1. The petitioners are the original plaintiffs, who had filed a suit, being Regular Civil Suit No. 61/2021 against the present respondents/defendants, *inter alia*, praying that defendant nos. 1 and 7 to 11 should not disturb possession of the plaintiffs over the suit property and should not cause any hindrance in the road used by the plaintiffs for approaching the suit property. The plaintiffs have a restaurant and a cold storage constructed over the suit property. The plaintiffs have filed a sketch map along with the plaint showing the road for accessing their property.

2. Learned Senior Advocate appearing on behalf of the petitioners has drawn my attention to the sale deed executed by the contesting respondent no. 1 in favour of his vendor, which is at page 82 of the petition and also the sale deed executed in favour of the petitioners to point out that the southern boundary of the land purchased by the petitioners comprises of gut nos. 113 and 16. He states that both the sale deeds refer to a road for accessing the property purchased by him. However, the boundaries mentioned in the sale deed are boundaries of the entire gut number and not boundaries of the suit property, which is a part of the said gut number. Perusal of the sale

deed demonstrates that although, there is a reference to a approach road, the exact location thereof cannot be ascertained.

3. In this backdrop, when written statement of respondent no. 1 and other respondents is perused, it is seen that the possession of the petitioners over the property purchased by them is not disputed. There is a sketch map attached to the written statement of the defendants in which portion of land in possession of the petitioners is specifically shown which is sufficient to hold that the petitioners are indeed in physical possession of the property purchased by them. Following is the image of the said sketch map filed by the defendants with their written statement:-



4. Perusal of the sketch map will demonstrate that the land purchased by the petitioners comprises of two distinct and separate plots. These plots are earmarked in the sketch map appended to the written statement filed by the respondents by mentioning the words "plaintiff" for one plot and the words "plaintiff share (Sakharam)" for the other plot. Perusal of the sketch map will demonstrate that the plot identified by the words "plaintiff" is bounded as under :-

West :- Plot of Tukaram and open space followed by Punerkhed
East :- Plot of Rajaram
North :- Open land
South :- Road marked by letters P & Q followed by land of defendant no.1.

5. The four boundaries of plot marked by letters "plaintiff's share (Sakharam)" are as under :-

West :- Land of Sitaram and defendant no.1.
East :- Plot of Rajaram
North :- Open land of another Gut Number
South :- Tikarkhana Kirwar road

6. The trial Court has granted order of temporary injunction in favour of the plaintiffs holding that plaintiffs have made out a *prima facie* case that the defendants should not cause any disturbance to their

possession over the suit property and should also not obstruct access to the suit property. As regards possession, it appears from the pleadings in the written statement that there is no dispute about possession of the petitioners over the aforesaid two plots. In view of the express admissions in the written statement as referred above, the petitioners have made out a *prima facie* case for grant of temporary injunction. Learned Appellate Court has failed to consider and properly appreciate the written statement along with the sketch map.

7. The principal dispute between the parties in the present petition pertains to approach road. Although, the learned Trial Court has granted injunction that the defendants/respondents should not cause obstruction to the access to approach road, perusal of order will demonstrate that the particulars for identifying approach road are not mentioned. The learned First Appellate Court has rejected the application for temporary injunction by allowing the appeal on the ground that both parties have only filed sketch maps and not proper maps drawn to scale, and as such, there is lack of clarity as regards the factual position at the spot. It is held that in such circumstances, it will not be safe to grant temporary injunction.

8. However, as stated above the learned Appellate Court ought

to have appreciated that although, the map filed by the defendants is a sketch map, the said sketch map can be co-related with the pleadings in the written statement. It is clear from perusal of the sketch map that according to the defendants, one stretch of land of plaintiff earmarked as, "plaintiff's share (Sakharam)," has direct access from Khirwad road. Likewise, the sketch map also indicates that the plaintiff can access his land marked by words, "plaintiff" from the road marked by letters P & Q in the sketch map appended to the written statement.

9. It will be pertinent to mention that the sketch map appended to the written statement shows that the road marked by letters P & Q extends upto the land of Sitaram, which is located alone side western boundary of the suit property marked by words, "plaintiff's share (Sakharam)", the photographs produced by the defendants during the course of hearing held on 15th July, 2025 shows existence of said road till the said plot of the petitioner marked by letters, "plaintiff's share (Sakharam)". However, sketch map does not mention width of the road.

10. It will be pertinent to mention that although, the sketch map shows existence of road P & Q only till the land of Sitaram which is abutting the land of petitioners marked by words, during the course of hearing held today, learned counsel for respondent no. 1 has handed

over a photograph according to which the road marked by letter P & Q extends till the plot of the plaintiff marked by words 'plaintiff's share (Sakharam)'.

11. It will be pertinent to mention that respondent no.1 has filed affidavit dated 21.07.2025, according to which, the width of the said road is around 10 feet. Respondents have stated in the affidavit that the porch constructed by the petitioners is by way of encroachment on the said land. The said affidavit further clarifies that road marked by letters P & Q extends till the plot of the petitioners.

12. In view of the above, writ petition is partly allowed. The impugned judgment and order dated 14.12.2023 passed by the learned District Judge-2, Bhusawal in Misc. Civil Appeal No.46/2022 is quashed and set aside. The order dated 09.12.2022 passed by the learned Joint Civil Judge, Junior Division, Raver on an application at Exhibit-5 in Regular Civil Suit No.61/2021 to the extent to which the respondents are restrained from interfering with possession of the petitioners over the two suit plots purchased by them is confirmed and as regards approach road, the defendants are directed to keep 10 ft. width road open for access of the plaintiffs to the suit plot marked by words, "plaintiff's share (Sakharam)" in the sketch map appended to the

written statement. This injunction shall continue till final disposal of Regular Civil Suit No.61/2021.

[ROHIT W. JOSHI J.]

sga/