

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 13863 OF 2023  
WITH  
CIVIL APPLICATION NO. 3706 OF 2024  
IN WP/13863/2023

Baburao Murlidhar Sinkar And Others

VERSUS

Baburao Bhimaji Sinkar Alias Bari

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Advocate for the Petitioner : Mr. Kulkarni Suvidh S.

Advocate for Respondents : Mr. V. D. Patnoorkar

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATED : DECEMBER 17, 2025

PER COURT :

1. Heard learned counsel for respective parties.
2. By way of present petition, the petitioners assail the order dated 08.03.2023 passed below Exhibit-5 by the learned C.J.J.D., Bhokardhan in R.C.S. No.207 of 2022, whereby the application filed by the plaintiff below Exhibit-5 came to be allowed and the same is also confirmed by the learned District Judge, Jalna by order dated 15.05.2023 passed below Exhibit-13 in Misc. Civil Appeal No.22 of 2023.
3. Mr. Kulkarni, learned counsel for the petitioners vehemently submits that the learned Trial Court has not considered the *prima facie* case. The registered sale deed and affidavit of the adjoining owners would depict that an alternate way was available to

the plaintiff and the learned Trial Court has not considered the same and balance of convenience is in favour of defendant no.1 and only on the ground the registered sale deed which was executed of the plaintiff which is of the year 1992 and in that there is recital by showing that there is a road in existence and only on that count, the learned Trial Court allowed the application Exhibit-5 and the same is confirmed by the learned Appellate Court. He submits that both Courts have committed apparent error and prayed to allow the petition by setting aside the orders of Trial Court as well as the Appellate Court. He submits that in fact the suit itself was not maintainable and the petitioners ought to have taken recourse of the provision of the Mamlatdar's Courts Act, 1906, if the road is in existence then the plaintiff has to file appropriate application under Section 142 of the MLR Code.

4. Per contra, Mr. Patnoorkar, learned counsel for respondent nos.1 and 2 supports the order passed by both the Courts.

5. Having gone through the order, the plaintiff filed the suit for injunction and along with that, the plaintiff places on record the copy of the registered sale deed of the year 1992, wherein as per the registered sale deed, there was a road in existence and as there was obstruction at the hands of defendant no.1 to use the said road and therefore, the learned Trial Court recorded the findings which are *prima facie* in nature. The learned Trial Court has considered that the

parties who suffered hardship is required to be protected and there was specific recitals in the registered sale deed and on that ground, the learned Trial Court granted injunction and the same is confirmed, therefore, I find no error in the orders passed by the learned Trial Court and the learned Appellate Court. The petition stands dismissed. No order as to cost.

**(SIDDHESHWAR S. THOMBRE, J.)**