



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

**40 WRIT PETITION NO. 10414 OF 2023**

**LAXMIBAI MADHAVRAO JADHAV**

**VERSUS**

**BALASAHEB GUNWANT BIRADAR AND OTHERS**

...

Mr. Kale Netaji Ganpatrao, Advocate for the Petitioner

Mr. Kudle Dhanaji Shrikantrao, Advocate for Respondent Nos.1 to 4

....

**CORAM : S. G. CHAPALGAONKAR, J.**

**DATE : 14.07.2025**

**PER COURT :-**

1. Heard learned Advocates appearing for respective parties.
2. The petitioner / original defendant impugns order dated 25.04.2023 passed by learned District Judge, Udgir Dist. Latur in Misc. Civil Appeal No.28 of 2022, thereby allowing application filed by plaintiffs below Exhibit-5 in Regular Civil Suit No.471 of 2022 pending before learned Civil Judge Junior Division, Udgir.
3. The respondents-plaintiffs instituted Regular Civil Suit No. 471 of 2022 contending that they are owners of land gut No.4 admeasuring 20 R situated at village Ekurka. It is further alleged that defendant, without any right or concern with suit land, disturbing plaintiffs' possession. The cause of action to file suit is stated to have occurred on 05.06.2022. Defendant refuted plaintiffs' claim by filing

written statement denying ownership of plaintiffs over suit land. According to defendant, she is owner of land from Block No.3 to the extent of 71 R. Plaintiffs' land is not adjacent to her land as Nanded-Bidar road passes between gut Nos.3 & 4. The boundaries shown in plaint in respect of suit property is incorrect.

4. Plaintiffs pressed application filed below Exhibit-5 for grant of temporary injunction against defendant. Learned Trial Judge rejected application relying Survey record and map of Hissa No.4 and observed that plaintiffs failed to prove whether suit land is adjacent to land of defendant.

5. Aggrieved plaintiffs filed Misc. Civil Appeal No.28 of 2022 before learned District Judge at Udgir, who relying upon consolidation record regarding survey No.7 and subsequent blocks carved out during implementation of consolidation scheme, observed that location of plaintiffs' land can be best ascertained from consolidation record. It supports plaintiffs case since there is no challenge to consolidation scheme, plaintiffs have prima facie proved ownership and possession over block No.4. Eventually allowed appeal and granted Temporary injunction in favour of plaintiffs.

6. Mr. Kale, learned Advocate appearing for petitioner submits that plaintiffs filed consolidation documents first time before learned

District Judge. Such documents were not part of record of suit. Although learned District Judge called reply of defendant on plaintiffs application for production of additional documents, without waiting for reply, proceeded further and passed impugned order relying upon additional documents. According to Mr. Kale, serious prejudice has been caused to petitioner-defendant as learned District Judge has not granted opportunity to explain documents and put up her contentions.

7. Per contra, learned Advocate appearing for respondents submits that learned District Judge has rightly relied upon public record and passed appropriate order.

8. Having considered submissions advanced, it can be observed that plaintiffs and defendant both are claiming ownership and possession of respective lands, which was part of erstwhile survey No.7. Plaintiffs claim ownership and possession of block No.4 admeasuring 20 R, whereas defendant claims ownership and possession of block No.3 admeasuring 71 R. It can be observed that learned Trial Judge while rejecting application-Exhibit 5 relied upon survey record and concluded that lands of plaintiffs and defendant are separated by road, hence plaintiffs case that defendant is adjacent landholder and he is obstructing them cannot be accepted. However, Appellate Court, upon appreciation of consolidation record,

observed that block No.4 is created from hissa Nos.4 and 6 of survey No.7. The location of lands can be ascertained from consolidation record. It is further observed that ownership of plaintiffs over 20 R land from gut No.4 is not disputed. Only dispute as to the location of property is raised, such objection would not survive once consolidation record, toch map of property is seen. Accordingly, situation of Block No.4 is appearing at corner of suit property. The learned District Judge has further observed that consolidation scheme is not challenged by defendant. In light of aforesaid record, plaintiffs have established their ownership and possession over the suit property. On, prima facie, consideration of aforesaid observations, no fault can be found in the view taken by learned District Judge.

9. Although, Mr. Kale, learned Advocate appearing for petitioner contends that Appellate Court relied upon additional documents without giving opportunity to defendant to explain contents thereof, the fact remains that learned District Judge rest his finding upon public records/impeccable documents prepared during implementation of consolidation scheme. Further, no prejudice shown to have been caused to petitioner. All those documents were very much available on record of appeal and Appellate Court has passed order after hearing both parties.

10. In that view of the matter, there is no merit in writ petition.

Hence, writ petition stands **rejected**.

11. In facts of present case, since suit is pending since 2022, learned Trial Court shall endeavour to expeditiously decide suit in any case within a period of one (01) year from today.

12. Parties to cooperate.

**[ S. G. CHAPALGAONKAR, J. ]**

*HRJadhav*