

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

905 WRIT PETITION NO. 10898 OF 2024

1. Shrinivas Janakrao More  
Age : 56 years, Occu : Agriculture,  
R/o. Sonkhed, Tq. Loha, Dist. Nanded

2. Satish S/o Amratrao Bhendekar  
Age : 54 years, Occu: Agri. R/o Cidco,  
Nanded Tq. and Dist: Nanded

..Petitioners

**VERSUS**

1. Kavita w/o. Rustomrao Pawde  
Age : 59 years, Occu : Agriculture,  
R/o Pawdewadi, Tq. & Dist. Nanded

2. Pradip S/o Ramnivas Somani,  
Age: 39 years, Occu: Doctor, R/o  
Vasantnagar, Tq. & Dist. Nanded.

3. Sudhakar S/o Balkishan Pande,  
Age: 69 years, Occu: Business,  
R/o Jangamwadi, Tq. & Dist. Nanded.

4. Hanmant S/o Sheshrao Sakhare,  
Age: 69 years, Occu: Agriculture,  
R/o Ramanand Nagar, Tq. & Dist. Nanded.

5. Sanjay S/o Vishwanathrao Gada,  
Age: 46 years, Occu: Agriculture,  
R/o Nandanvan Colony, Tq. & Dist. Nanded.

6. Naresh S/o Balaji Pokalwar,  
Age: 37 years, Occu: Business,  
R/o Ganeshnagar, Tq. & Dist. Nanded.

7. Balaji S/o Narayan Barse,  
Age: 53 years, Occu: Private Service,  
R/o Dattnagar, Tq. & Dist. Nanded.

8. Sushila W/o Tukaram Kharbe,  
Age: 50 years, Occu: Household.

R/o Rahati, Tq. & Dist. Nanded.

9. Keshav S/o Ashroba Rode,  
Age: 46 years, Occu: Agriculture,  
R/o Yashwantnagar, Tq. & Dist. Nanded.
10. Kashibai W/o Anilrao Barse,  
Age: 38 years, Occu: Householi,  
R/o Itwara, Tq. & Dist. Nanded.
11. Sujit S/o Sakharam Kanchalwar,  
Age: 48 years, Occu: Business,  
R/o Anandnagar, Tq. & Dist. Nanded
12. Sanjay S/o Gangadhar Alsatwar.  
Age: 51 years, Occu: Business.  
R/o Samratnagar. Tq. & Dist. Nanded.
13. Anil S/o Pralhadrao Kulgulwar,  
Age: 46 years, Occu: Business,  
R/o Yashwant Nagar, Tq. & Dist. Nanded.
14. Anjali W/o Jayesh Majalgaonkar,  
Age: 47 years, Occu: Household,  
R/o Deepnagar, Tq. & Dist. Nanded.
15. Padmakar S/o Prahladrao Kulgulwar,  
Age: 45 years, Occu: Business,  
R/o Yashwantnagar, Tq. & Dist. Nanded.
16. Varsha w/o Gajanan Jadhav,  
Age: 34 years, Oecu: Household,  
R/o Kendra, Tq. Shengaon, Dist. Hingoli,
17. Anita W/o Chinoda Bodhgire.  
Age: 50 years, Occu: Household,  
R/o Jangamwadi, Tq. Kandhar, Dist. Nanded
18. Balaji S/o Prabhakar Dhampalwar,  
Age: 39 years, Occu: Business,  
R/o Betmogra, Tq. Mukhed, Dist. Nanded.
19. Gajanan S/o Rajkumar Uttarwar,  
Age: 30 years, Occu: Agriculture,  
R/o Somesh Colony, Tq. & Dist. Nanded

...Respondents

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Mr. Parth Shinde and Mr. Kapil Morey a/w. Mr. Ganesh A. Gadhe,  
Advocates for the Petitioners.

Mr. Avinash D. Hande, Advocate for Respondent Nos.1 to 4, 6 to 15 &  
18.

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**CORAM : ROHIT W. JOSHI, J.**

**DATED : 25<sup>th</sup> JULY 2025**

**ORAL JUDGMENT :-**

1. Respondent nos.1 to 19 are the original plaintiffs who have filed a suit for perpetual injunction being Regular Civil Suit No.143 of 2021 against the present petitioners. The application for grant of temporary injunction in the said suit was rejected by the learned Trial Court. The plaintiffs' appeal came to be allowed against which the original defendants have filed the present petitioner.

2. Defendant No.2 Satish S/o. Amratrao Bhendekar purchased 0.81 HR land out of Gat No.92 of Village Sonkhed, Tahsil Loha, District Nanded vide registered sale deed dated 07.07.2006 from one Meenabai Govindrao More. The boundaries of the aforesaid property purchased by petitioner no.2 are as under:-

“East – Agricultural Land of Rangnath More  
West - Agricultural Land of Vithal Borgaonkar,  
South- Sonkhed to Borgaon Road  
North – Agricultural land of Ganpatrao More”

3. One Ramdas More has purchased 0.81 HR land in the same Gat No.92 from Rani Govindrao More who being a minor acted through her mother-Meenabai Govindrao More. The boundaries of this property purchased vide sale deed dated 07.12.2006 are as under :-

“East – Agricultural Land of Sumitrabai More  
West - Agricultural Land of Nagnath Paijane,  
South- Satish Bhendekar  
North – Agricultural land of Ganpatrao More”

4. Respondent No.1-Kavita Rustomrao Pawde has purchased the aforesaid 0.81 HR land in Gat No.92 from one Ramdas More vide sale deed dated 25.11.2008. The four boundaries mentioned in the sale deeds are as under :-

“East – Agricultural Land of Ashok, Champatrao & Rangnath More  
West - Agricultural Land of Sumitrabai Nansaheb More,  
South- Sonkhed to Borgaon Road  
North – Agricultural land of Satish Bendekar”

5. Thus, the southern boundary in the sale deed dated 07.07.2006 executed by Meenabai Govindrao More in favour of petitioner No.2 mentions the southern boundary as “Sonkhed to Borgaon road” and the sale deed dated 25.11.2008 executed by Ramdas More in favour of respondent No.1 also mentions southern boundary as “Sonkhed to Borgaon road” although in the sale deed dated 07.12.2006 executed in favour of Ramdas More(vendor of respondent no.1) the southern

boundary is mentioned as land belonging to petitioner no.2.

6. It appears that respondent no.1 has thereafter sold various portions of the aforesaid land purchased by her to respondent nos.2 to 19 by carving out a lay out of residential plots in the said land. Respondent nos.1 to 19 claim to be in possession of 0.81 HR land abutting the road. The petitioners also claim possession of the same 0.81 HR land. In such circumstances, the respondents have filed the aforesaid civil suit for perpetual injunction *inter alia* praying that the petitioners should not disturb their possession over the suit property. The petitioners opposed the said civil suit claiming ownership over the southern portion of Gat No.92 on the basis of sale deed dated 07.07.2006. Noticing that the sale deed of vendor of respondent no.1 itself shows the southern boundary of the land purchased by her as land owned by petitioner no.2, the learned Trial Court has rejected the application for grant of temporary injunction vide order dated 30.10.2022.

7. This order dated 13.10.2022 came to be assailed by respondents/plaintiffs by filing appeal being Miscellaneous Civil Appeal No.31 of 2022. The learned Appellate Court has allowed the said appeal vide judgment and order dated 11.07.2024. The learned

Appellate Court has recorded that there was some mistake in mentioning southern boundary in the sale deed executed in favour of Ramdas More (vendor of respondent no.1). The learned appellate Court has placed reliance on documents of non-agricultural assessment and lay out sanctioned in favour of respondent no.1 to hold that the respondents *prima facie* appeared to be in possession of the suit property.

8. This judgment and order dated 11.07.2024 allowing the appeal and thereby granting temporary injunction is subject matter of challenge in the present petition.

9. It *prima facie* appears that since the sale deed of Ramdas More (vendor of respondent no.1) shows the southern boundary as land owned by petitioner no.2 and not the road, the land owned by petitioner no.2 is abutting the road. However, the learned counsel for respondent/plaintiffs states that the layout is sanctioned in the year 2010 and the order of non-agricultural assessment is passed in the year somewhere around the same time. He contends that while carving out a layout the lands were measured, plots were being demarcated and the petitioners were fully aware about the development activities that was on going on the property.

10. He draws attention to sale deed dated 19.07.2011 executed by Sumitra More in favour of Sudarshan Shinde and four others in which the eastern boundary of the said land sold out of same Gat No.92 is shown as land owned by respondent no.1. He draws attention to the fact that the petitioner no.1 is attesting witness to the said sale deed. He further contends that southern boundary of this land is the same Sonkhed -Borgaon Road which both parties claimed is the southern boundary of their respective land. He therefore contends that it is *prima facie* evident that the respondents are in possession of the suit property and an inadvertent error has occurred in describing the boundary in the sale deed of Ramdas More (vendor of respondent no.1).

11. The learned counsel for the petitioners counters by stating that even if it is assumed that there was some mistake in mentioning boundary in the sale deed of vendor of respondent no.1, southern boundary in the sale deed of petitioner no.2 also mentions Sonkhed-Borgaon road as a southern boundary. He contends that an inadvertent mistake cannot be committed twice over. As regards the measurement of the lands while following the procedure for passing non agricultural assessment order and granting lay out sanction, the learned Counsel for the petitioner draws attention to the compilation

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of documents filed by the respondents before this Court and particularly to the application dated 15.06.2010 submitted by respondent no.1 to the office of Taluka Inspector of Land Record, Nanded in which the names of co-owners of Gat Number and adjoining owners are not mentioned. It appears that the learned Trial Court has granted the injunction noticing the discrepancies in the boundaries in the sale deeds without advertng to other material on record. Likewise, the learned First Appellate Court has also given importance to the order of non-agricultural assessment and lay out sanction without dealing with other attending circumstances referred above.

12. In view of the above, it will be expedient in the interest of justice that the matter is revisited by the learned Trial Court. The learned Trial Court should consider the entire material produced by both parties on record to decide the application for grant of temporary injunction afresh. The parties will be at liberty to file additional documents in this regard. Hence following order :-

### **ORDER**

- i. Writ petition is partly allowed.
- ii. Order dated 13.10.2022 passed by the learned Civil Judge, Junior Division at Exhibit-5 in Regular Civil Suit No.143 of Narwade

2021 and judgment and order dated 11.07.2024 passed by the learned District Judge-1, Kandhar in Miscellaneous Civil Appeal No.31 of 2022 are quashed and set aside.

iii. Learned Trial Court is directed to decide the application for grant of temporary injunction afresh and if possible within a period of three weeks from the next date fixed in the matter i.e. 7.08.2025.

**[ROHIT W. JOSHI, J.]**