



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO. 13484 OF 2025

BALASAHEB MAMTAJI BHUJBAL AND OTHERS
VERSUS
THE COLLECTOR AHMEDNAGAR AND OTHERS

Advocate for the Petitioner : Mr. M.A. Manav h/f. Mr. S.H. Jadhav
AGP for Respondent/State : Mr. V.K. Kotecha

CORAM : ARUN R. PEDNEKER, J.

Dated : November 12, 2025

PER COURT :-

1. Heard the learned counsel for the petitioners.
2. The petitioners challenge the order passed on interim relief application, restraining the defendants from obstructing the path way which is situated in between the agricultural land Gat Nos. 72/1 and 75 and towards southern side of Gat No. 56/1, known as suit land. The interim relief application has been rejected by the trial court as well as appellate court. In para 15 and 16, the appellate Court has observed as under :-

"15) If we consider, the sale deed between Annasaheb Shendge and Shriram Gade as regards Gat no. 58, now owned by defendant no.3, one will find in the said sale deed that, there is a suit road mentioned in it. Further in the mutation entry also, one will find mention of suit road. Further in Index II also, one will find that there is suit road. Further in the compromise decree between Vimalbai and Vitthal Bhujbal in RCS NO. 251/2008, one will find mention of suit road in it. Further in the spot inspection panchanama also, one will find that there was a suit road and it came to be destroyed and in its place, a tin shed came to be built by the plaintiffs during the pendency of Rasta Case. To substantiate this fact about constructing Tin shed, there are photographs on record before construction of tin shed, while constructing tin shade and after constructing tin shed. Therefore from the said act of the plaintiffs, the conduct of the plaintiffs is seen i.e. to obstruct the defendant no.3 from using the suit road. Except the bare words in the

pleadings that, defendant no.3 is having alternate way to approach his agricultural land, there is nothing on record to substantiate the said facts.

16) On re-appreciating the material on record, this court finds that, plaintiffs have failed to make out a prima facie case in their favour. Balance of convenience does not tilt in favour of the plaintiffs. No irreparable loss will cause to the plaintiffs, as it is seen from the record that, during the pendency of the Rasta case, the plaintiffs had hurriedly constructed the tin shed. Therefore this court answers point no. 1 in the Negative."

3. The appellate court has observed that there is a pathway which is not used by the defendants. The appellate court has also observed that there is no prima facie case and balance of convenience in favour of the petitioners. Considering this aspect, the interim relief application has been rejected.

4. The learned counsel submits that in the event interim relief application is not granted, the suit filed by the petitioner would be rendered infructuous. I do not agree with the submission made by the learned counsel for the petitioner as prima facie view is taken by the courts below. There is existence of a path way and as such, injunction is refused. In the event the petitioner succeeds in suit in establishing that respondents/defendants have no right to access the road from the land of the petitioners, the petitioners would be entitled to compensatory relief under section 22 of the Mamlatdar Courts Act.

5. Considering above discussion, I hold that no case is made out. The writ petition is accordingly dismissed.

(ARUN R. PEDNEKER, J.)

ssc/