



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 8437 OF 2025**

SANTARAM JAGANNATH SALUNKHE
VERSUS
PARVATIBAI BABANRAO GIRGE AND OTHERS

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Mr. Ajinkya Anand Joshi, Advocate for the Petitioner.

Mr. S. P. Joshi, AGP for Respondents-State.

Mr. G. J. Pahiwan h/f Mr. A. K. Phatangade, Advocate for Respondent No.1.

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**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 11th JULY, 2025.**

P.C.:-

1. Heard learned Advocate appearing for respective parties.
2. Mr. Joshi, learned Advocate appearing for petitioner points out that learned Tahsildar passed order dated 10.03.2023 in exercise of powers under Section 5 of Mamlatdar's Courts Act directing clearance of approach way from common bandh of Gut Nos.158 and 159. He submits that petitioner owns his land in Gut No.159. In application filed by respondent no.1 before Tahsildar, petitioner was not made party. The order is passed behind back of petitioner and now same is sought to be executed under notice dated 07.07.2025 issued by Circle Officer, Apegaon. Mr. Joshi, point out that now respondent no.1 has filed Civil Suit and relying upon order of Tahsildar, obtained injunction against him.
3. In these circumstances, looking to the factual matrix of the matter, *prima facie*, order of Tahsildar would not be sustained,

when petitioner, who is land owner from Gut No.159 was not made party. Hence, issue notice to respondents, returnable on 22.08.2025. The learned A.G.P. waives notice for respondent nos.2 and 3. Mr. Phatangade, learned Advocate waives notice for respondent no.1.

4. Till returnable date, execution of order dated 10.03.2023 passed by learned Tahsildar be kept in abeyance. However, it is made clear that, adjacent land holders from Gut Nos.158 and 159 shall be entitled to use common bandh as pathway.

5. The learned AGP to communicate this order to concerned authorities.

6. Parties to act on authenticate copy of this order.

(S. G. CHAPALGAONKAR)
JUDGE