

Jvs.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4354 OF 2013**

Abdul Razzaq Sunesra	}	Petitioner
versus		
Sekar Joel Delvis & Ors.	}	Respondents

JAYANT
VISHWANATH
SALUNKE

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JAYANT VISHWANATH
SALUNKE
Date: 2025.07.14
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Ms. Samiksha Rao i/b. Mr. Omkar Kulkarni for petitioner.

Mr. Bhalchandra S. Shinde for respondent no. 1.

CORAM: ALOK ARADHE, C. J.

DATE: JULY 14, 2025

ORAL ORDER:

1. In this petition under Article 227 of the Constitution of India, the petitioner has challenged the validity of the order dated 20th February 2013 passed by the appellate court, by which the appeal filed by petitioner under Order XLIII Rule 1(r) of the Code of Civil Procedure, 1908 (CPC) has been dismissed and the order dated 16th August 2012 passed by the Trial Court rejecting the application filed by respondent no. 1/plaintiff seeking injunction was allowed, has been affirmed.

2. Facts giving rise to filing of the writ petition, briefly stated, are that respondent no. 1/plaintiff filed a suit seeking relief of declaration and injunction. The claim in the suit was based on the ground that respondent no. 1/plaintiff has residential house on Survey No. 55/8 situate at Dhandeghar, Taluka Mahabaleshwar, District Satara. The respondent no. 1/plaintiff started construction work and sometime in the month of January 2012, started construction of fence at the property. However, the petitioner/defendant interfered with the

possession of the property. Thereupon, respondent no.1/plaintiff filed a suit seeking relief of permanent injunction.

3. The Trial Court, by an order dated 16th August 2012, restrained the plaintiff from entering into Survey No. 55/8. Being aggrieved by the aforesaid order, the petitioner preferred an appeal, which has been dismissed on 20th February 2013 by the appellate court. Hence this petition.

4. Learned counsel for the petitioner submitted that a Bench of this court had granted interim relief on 28th October 2023, therefore, the same be made absolute and the Trial Court be directed to decide the suit expeditiously.

5. Learned counsel for the respondent supported the orders passed by the Trial Court as well as the appellate court.

6. I have considered the submissions made by both sides and perused the record.

7. Learned Single Judge of this Court, by an order dated 28th October 2013, granted interim relief in terms of prayer clause (b) with a clarification that the petitioner shall not in any way change the nature of the access to his property and the access as it exists is of it being only levelled with rubble spread over it. The aforesaid interim order remained in force for 12 years.

8. In the aforesaid facts and circumstances of the case, the interim order is made absolute and the Trial Court is directed to decide the suit expeditiously, preferably within a period of six months from today. Accordingly, the writ petition is disposed of.

9. Let a copy of this order be communicated to the Trial Court forthwith.

(CHIEF JUSTICE)