

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
SECOND APPEAL NO.920 OF 2022**

1. Shri. Aslam Sardar Bagwan
Age-56 yrs., Occ.- Agriculture,
2. Shri. Rajmahammad Sardar Bagwan (D/H)
- 2/1. Smt. Najma Sardar Bagwan
Age-61 yrs., Occ.- Agri & HH
No.1 & 2/1 R/o. Pethbag, House No.
498, Sangli, Tal. Miraj, Dist. Sangli.
- 2/2. Sou. Sumayya Altaf Bagwan
Age-36 yrs., Occ.-Agri & HH
R/o. Kavathemahankal, Dist. Sangli
- 2/3. Sou. Anjum Ismail Bagwan
Age.34 yrs, Occu. Agri & HH
R/o. Laxmi Colony, Opposite Gas
Godown, Kolhapur, Dist. Kolhapur
- 2/4. Shri. Mhamulal Rajmahammad
Bagawan (D/H)
- 2/4/1. Smt. Asma Mhamulal Bagwan
Age.22 yrs, Occu. Household)
- 2/4/2. Kumar Atik Mhamulal Bagwan
Age. 11 yrs, Occu. Education
- 2/4/3. Kumari Ikra Mhamulal Bagwan
Age. 6 yrs, Occu. Education
- 2/4/4. Kumari Alija Mhamulal Bagwan
Age.6 yrs, occu. Education
No.2/4/1 for herself and Guardian
Mother of No.2/4/2 to 2/4/4
- 2/5. Shri. Salim Rajmahammad Bagwan
Age.24 yrs, Occu. Agri & Business
3. Shri. Rafik Sardar Bagwan
Age. 53 yrs, Occu. Agri & Business
4. Shri. Allanur Sardar Bagwan

Age. 51 yrs, Occu. Agri & Business
All R/o. Pethbhag, House No.498
Sangli, Tal.Miraj, Dist. Sanglij.

..Appellants
(Ori. Plaintiffs)

Versus

1. Shri. Praveen Banda Awale
Age - 37 yrs., Occ. - Business
 2. Sou. Kunda Praveen Awale
Age.33 yrs, Occu. Household
No.1 & 2 R/o. Kawalapur, Tal.Miraj
Dist. Sangli.
 3. Tahasildar, Miraj
State of Maharashtra through Collector Sangli
- ..Respondents
(Ori. Defendants)

Mr. Padmnabh D. Pise a/w Ms. Sejal A. Hariyan a/w Mr. Prathamesh Patil, Advocate for Appellants.

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 13th NOVEMBER, 2025.

FINAL ORDER:-

1. The present Second Appeal takes exception to judgment and decree dated 13.04.2022 passed by District Judge, Sangli in Regular Civil Appeal No.45/2020, thereby upholding judgment and decree dated 08.01.2020 passed by Civil Judge Senior Division, Sangli in Regular Civil Suit No.228/2018, whereby suit of appellants/plaintiffs has been dismissed. (Hereinafter, parties are referred to by their original status for the sake of convenience and brevity).

2. The plaintiffs instituted Regular Civil Suit No.228/2018 contending that they are owners and possessors of land Gut No.1778 admeasuring 3 acres and 1^{1/2} gunthas at village Kavalapur, particularly as specified in plaint. The land Gut No.1779, 1778, 1777 and 1776 are

abutting to each other. The Government road flows from East-West direction from Southern side of Gut No.1776. The defendant nos.1 and 2 purchased East-West side land from Gut No.1778 on 05.12.2008 under Swabhiman Yojana. They filed application under Section 143 of Maharashtra Land Revenue Code (for short 'MLR Code'), in which Tahsildar passed order granting cart way of 8 feet from boundary of Gut Nos.1777 and 1778. The plaintiffs contend that defendants have alternate way available from Eastern side of Gut No.1778. However, they encroached upon alternate way and closed it and then made application for grant of way from boundary of Gut Nos.1777 and 1778. According to plaintiffs, Tahsildar exceeded his jurisdiction.

3. The defendants caused appearance, filed their written statement contending that since they had no access way to their lands, they filed application under Section 143 of MLR Code, which has been granted after due enquiry.

4. The Trial Court framed issues, recorded evidence of parties and finally decreed suit holding that plaintiffs could not prove that defendants have alternate access way or order passed by Tahsildar is invalid or illegal. The First Appellate Court dismissed Appeal of plaintiffs upholding order of Trial Court.

5. Mr. Padmanabh Pise, learned Advocate appearing for appellants submits that defendants have alternate road to approach their lands. The Tahsildar without issuing notice to adjacent land holders passed

order granting way in favour of defendants. Further, while executing order passed by Tahsildar reliance is placed on sketch map annexed with plaint. It shows way from plaintiffs' land and not from Sarbandh. Therefore, great injustice is caused to appellants.

6. Having considered submissions advanced, it can be observed that Section 143 of MLR Code empowers Tahsildar to inquire into and decide claims by persons holding land in a survey number to a right of way over the boundaries of other survey numbers having regard to needs of cultivators for reasonable access to their field. The defendants, who are owners of land Gut No.1778, filed application for grant of requisite access to their field from boundaries of Gut No.1778. The Tahsildar caused panchanama and find that defendants do not have access to their lands. Therefore, granted application of defendants and permitted them to use East-West Sarbandh on Gut Nos.1777 and 1778 as 8 feet cart way and further observed that if there is encroachment abutting to Sarbandh that has to be removed. The appellants/plaintiffs challenged aforesaid order by filing Regular Civil Suit No.228/2018.

7. The Trial Court after recording evidence, concluded that plaintiffs could not prove alternate way to defendants to access their lands. PW1-Aslam could not show existence of access way from Eastern side of Gut No.1778. On the other hand, defendants have filed on record village map to demonstrate that alternate way as claimed by

plaintiffs is not available to them. Section 143 of MLR Code empowers Tahsildar to grant reasonable access to field having regard to need of cultivators of cultivators that too from boundaries of survey numbers. In present case, perusal of order of Tahsildar would show that access has been granted from Sarbandh of Gut Nos.1777 and 1778 to defendants. It is limited to 8 feet cart road. In this background, both Courts are justified in observing that Tahsildar has exercised jurisdiction within parameters of law.

8. Although learned Advocate appearing for appellants endeavours to impress upon this Court that map annexed to application filed before Tahsildar indicate that access is granted from land of appellants from Gut No.1778, order passed by Tahsildar clearly depicts that only 8 feet cart road is granted that too from Sarbandh and not from field of appellants. Even otherwise, if appellants have any objection regarding execution of order passed by Tahsildar, their remedy is open. In present case, appellants could not bring on record specific material to show that under garb of order passed by Tahsildar defendants are trying to encroach upon his property.

9. In that view of matter, no substantial question of law arises for consideration in this Appeal. Hence, Second Appeal stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE