

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.472 OF 2025

1. Anjali Rakesh Thik,
Age approx.55 years,
Occ.-Household,
2. Janabai Gopal Thik,
Age approx.58 years,
Occ.-Household
3. Vithabai Gopal Thik,
Age approx.59 years,
Occ.-Household.
4. Indu Gopal Thik,
Age approx.44 years,
Occ.-Agriculture.
5. Yashwant Gopal Thik,
Age approx.47 years,
Occ.-Agriculture.
6. Sunil Shankar Thik,
Age approx.50 years,
Occ.-Agriculture.
7. Sunanda Shankar Thik,
Age approx.52 years,
Occ.-Household.
8. Aarti Deepak Ambekar,
Age approx.40 years,
Occ.-Household.
9. Pradip Shankar Thik,
Age approx.45 years,
Occ.-Agriculture.

10. Shalini Govind Thik,
Age approx.55 years,
Occ.-Household.
11. Rasuja Chandrakant Mandavkar,
Age approx.40 years,
Occ.-Household.
12. Sarthak Rakesh Thik,
Age approx.30 years,
Occ.-Agriculture.
13. Sanika Suhas Thick,
Age approx.32 years,
Occ.-Household
14. Arya Suhas Thick,
Age approx.30 years,
Occ.-Household.
1 to 14 all residing at
Tivandewadi, Taluka and
District Ratnagiri.

.....Appellants
(Orig. Deft. Nos.3 to 16)

Vs.

1. State of Maharashtra,
Through the Collector,
Ratnagiri, Having his address
at Collector Compound, Ratnagiri.
2. The Sub Divisional Officer and
Land Acquisition Officer,
Ratnagiri.
3. Sunil Vitthal Thik,
Age approx.48 years,
Occ.-Agriculture.
4. Suresh Vitthal Thik,
Age approx.60 years,
Occ.-Agriculture.

5. Ramchandra Vitthal Thik,
Age approx.65 years,
Occ.-Agriculture.
3 to 5 all residing at
Tivandewadi, Shirgaon,
Taluka and District Ratnagiri.
6. Vaishali Vijay Thik,
Age approx.56 years,
Occ.-Household.
7. Chandrakant Pandurang Thik,
Age approx.42 years,
Occ.-Agriculture.
8. Anant Pandurang Thik,
Age approx.55 years,
Occ.-Agriculture.
6 to 8 all residing at
Tivandewadi, Taluka and
District Ratnagiri.

.....Respondents

(Res. Nos.1 & 2-Orig. Deft. Nos. 1 & 2,
Res. Nos.3 to 5 Orig. Plff. Nos.1 to 3 and
Res. Nos.6 to 8 Orig. Deft.Nos. 17 to 19)

Mr. Nitin P. Deshpande (Through Vc), for the Appellant.

CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON: 7th NOVEMBER 2025

PRONOUNCED ON : 20th NOVEMBER 2025

JUDGMENT :-

1. The present Appeal takes exception to order dated 29th April 2025 passed by Civil Judge, Junior Division, Ratnagiri in Special Civil Suit No. 52 of 2025, by which defendant No.2-Sub Divisional Officer and Land Acquisition Officer, Ratnagiri (For short, 'SDO/LAO') has

been restrained from disbursing compensation amount in pursuance to order dated 7th January 2025 passed by him.

2. The Respondent Nos.3 to 5 (original plaintiffs) instituted Special Civil Suit No.52 of 2025 seeking declaration that order dated 7th January 2025 passed by Respondent No.2-SDO/LAO is *ultra virus*, null and void and plaintiffs are entitle for receipt of compensation.

3. It is contention of plaintiffs that suit land was originally owned by one Ganesh Purshottam Apte. The grand-father of plaintiffs namely Yesa Vithu Thik was protected tenant. Eventually, Mutation Entry No.1310 was passed and his name was shown as protected tenant. Thereafter, predecessor-in-title of defendant No.3 to 16 recorded their names in mutation record. According to plaintiffs, suit property is in their possession. The mutation record is wrongly maintained. Respondent No.2. During course of acquisition, directed to give effect to Mutation Entry No.4805. Accordingly, Mutation Entry No.1345 has been affected.

4. According to plaintiffs, aforesaid directions are given in pursuance to objections raised by defendants. The SDO/LAO has exceeded his jurisdiction and instead of referring dispute to Civil

Court delved into issue of title. According to plaintiffs, order dated 7th January 2025 passed by SDO/LAO is invalid. Plaintiffs further filed an application below Exhibit 5 seeking temporary injunction restraining SDO/LAO from disbursing compensation to defendant No.3 to 16 in pursuance to impugned order. The trial Court after considering pleadings and material tendered into service *prima facie* found that SDO/LAO has exceeded his jurisdiction. He ought to have referred objection of defendants to Civil Court. Trial Court observed that if amount is disbursed to defendants, plaintiffs would suffer irreparable loss. Accordingly, granted the order of temporary injunction.

5. Mr. Nitin Deshpande, learned Advocate appearing for Appellants submits that Respondent No.3, 4 and 5 have never challenged Mutation Entry No.4805. Respondent No.2 has directed to give effect to Mutation Entry No.4805 and cancel earlier measurement. It is further ordered to carry out fresh measurements and release compensation accordingly. Mr. Deshpande submits that Civil Court has no jurisdiction to entertain suit assailing order passed by SDO/LAO and issue further orders.

6. The perusal of record indicates that SDO/LAO has passed an Award based on mutation record in relation to suit lands. Respondents are claiming rights over the acquired land, so also right to compensation. They filed objections to SDO/LAO and claimed that Mutation Entry No.4805, which was already sanctioned, is not given effect, therefore, joint measurement be carried as per 7/12 extracts and pass further orders, after hearing concerned parties.

7. The aforesaid order is subject matter of challenge in suit. The trial Court found that 7/12 extracts relating to Survey No.1/1/1 shows the area to the extent of 6 R in the name of plaintiff Nos. 1 to 3, whereas the 7/12 extract dated 26th December 2022 shows that land to the extent of 1-62 H has been recorded in their names. The aforesaid change has been effected as per order passed by SDO/LAO, which is contrary to opinion given by Deputy Superintendent of Land Record. The trial Court observed that aforesaid order is passed in pursuance to objection raised by defendant No.3 seeking right in compensation amount. The trial Court further observed that possession of plaintiffs has been recorded over the suit property. As such, *prima facie* plaintiffs are in possession of land. In that view of

the matter, if compensation amount is paid to defendant No.3 to 16 in pursuance to order dated 7th January 2025 passed by SDO/LAO, plaintiffs would suffer irreparable loss

8. The trial Court appears to have taken into account the *prima facie* case made out by plaintiffs depicting that order dated 7th January 2025 passed by defendant No.2-SDO/LAO is beyond his jurisdiction. In fact, it was for him to refer dispute to Civil Court for apportionment of compensation.

9. In that view of the matter, no fault can be found in the impugned order requiring interference in appellate jurisdiction. In result, the Appeal stands dismissed.

(S. G. CHAPALGAONKAR, J.)

Digitally
signed by
RAJU
DATTATRAYA
GAIKWAD
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