

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.11301 OF 2025**

1. Parsappa Murgyappa Kalmadi
Age about 48 years, Occu: Agriculture,
2. Sangappa Malkappa Basargi
Age about 44 years, Occu: Agriculture,
3. Irappa Girmalla Basargi
Age about 43 years, Occu: Agriculture,
4. Smt. Ningamma Daryappa Teli
Age about 37 years, Occu: Agriculture,
All residing at Khojanwadi, Tal: Jath,
Dist: Sangli.

....Petitioners
(Org. Defendants)

Versus

1. Birappa Pandurang Daingade
Age about 44 years, Occu: Agriculture,
2. Suresh Pandurang Daingade
Age about 46 years, Occu: Agriculture,
3. Laxmibai Tippanna Dhangar
Age about 49 years, Occu: Agriculture,
4. Murgyappa Tippanna Dhangar (Pujari)
Age about 35 years, Occu: Agriculture,
5. Ramanna Shivappa Dhangar (Jogi)
Age about 46 years, Occu: Agriculture,
6. Mhalu Shvappa Dhangar (Jogi)
Age about 35 years, Occu: Agriculture,
All residing at Khojanwadi, Tal: Jath,
Dist: Sangli.

....Respondents
(Nos.1 is Org. Plaintiff and
Nos.2 to 6 Org. Defendants)

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Mr. Ramdas Shelke, Advocate for Petitioners.

Mr. Amit Sale a/w Mr. Shreyas Karajgar, Advocate for Respondents.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 07th OCTOBER, 2025.

PRONOUNCED ON : 14th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The petitioners (original defendants) in Regular Civil Suit No.166/2024 impugns order dated 25.07.2025 passed by District Judge-I, Sangli in Miscellaneous Civil Appeal No.141/2024, thereby upholding judgment and order dated 07.12.2024 passed by Civil Judge Junior Division, Jath below Exhibit-5 in Regular Civil Suit No.166/2024.
3. The petitioners had approached Tahsildar under Section 143 of Maharashtra Land Revenue Code, 1966 (for short 'MLR Code') for grant of access road. The Tahsildar carried spot panchanama dated 16.07.2024 and recorded that petitioners have no access road and, therefore, they are entitled for access way from Gut Nos.384 and 383 to approach their land in Survey No.385. Accordingly, Tahsildar issued directions vide order dated 06.08.2024 to make out way from Eastern boundaries of Gut Nos.384 and 383 and Southern side of Gut No.383 creating approach way to access Gut No.385.
4. The respondent no.1 (original plaintiff) instituted Regular Civil Suit No.166/2024 seeking declaration that order dated 06.08.2024

passed by Tahsildar under Section 143 of MLR Code is not binding on him and also claimed injunction against defendants in suit. The respondent no.1 also filed application below Exhibit-5 for grant of temporary injunction.

5. The Trial Court after considering rival contentions observed that sale deed of respondent no.1 is dated 29.11.2004, whereas sale deed of petitioners is dated 13.09.2024. As per sale deed of petitioners, on Western side there is North-South cart way. As such, *prima facie* observations of Tahsildar in his order passed under Section 143 of MLR Code is contrary to record. The Trial Court further observed that Tahsildar erroneously assumed that Umrani to Khojanwadi road is private road of owners of Gut Nos.1280 and 1281. The Trial Court has further observed that, when petitioners have alternate road, jurisdiction under Section 143 of MLR Code could not have been exercised. Accordingly, allowed application Exhibit-5 and granted injunction against petitioners from creating new way from Eastern side/shiv of respondent's suit property from Gut No.384 as per order passed by Tahsildar.

6. The petitioners approached District Judge, Sangli by filing Miscellaneous Civil Appeal No.141/2024. The District Judge observed that Tahsildar had drawn first panchanama dated 06.06.2024. Later on, second panchanama is drawn on 16.07.2024. In first panchanama, existence of road from boundary of Umrani to Khojanwadi village

having width of 10 feet road is shown. However, in subsequent panchanama, addition is made that said access way is private and petitioners cannot use the same. According to District Judge, there is basic flaw in order of Tahsildar.

7. Mr. Ramdas Shelke, learned Advocate appearing for petitioners endeavours to contend that Trial Court as well as Appellate Court has wrongly observed that as per village map, petitioners have access way. Such observation is inconsistent with record. He would further submit that panchanama dated 16.07.2024 clearly depicts that 10 feet way passing from Western side of Gut Nos.385, 383 and 384 cannot be used during rainy season. Further, electric transformer is installed on that way, which creates obstruction in user of said road. He would, therefore, submit that Tahsildar has rightly granted access way in terms of Section 143 of MLR Code. The Civil Court could not have interfered in order of Tahsildar.

8. Per contra, Mr. Amit Sale, learned Advocate appearing for respondents supports impugned order.

9. Having considered submissions advanced by learned Advocates appearing for respective parties, it can be observed that Section 143 of MLR Code empowers Tahsildar to enquire into and decide claims by persons holding land in survey number to right of way over boundaries of other survey numbers. The Tahsildar requires to

consider needs of cultivators for reasonable access to their fields. The Sub-section (4) of Section 143 of MLR Code enables person aggrieved by decision of Tahsildar to institute Civil Suit for setting aside or modifying order of Tahsildar. The respondent no.1 aggrieved by decision of Tahsildar, instituted Regular Civil Suit No.166/2024. He objected order firstly on the ground that petitioners have existing access way as depicted in their own sale deed. Further, Tahsildar has also observed existence of such way, however, based on incorrect panchanama allowed claim of petitioners under Section 143 of MLR Code.

10. *Prima facie*, sale deed of petitioners dated 05.03.2019 refers to four boundaries of land purchased by them from Gut No.383. On Western side of land, North-South cart way is shown. Further panchanama drawn by Tahsildar on 06.06.2024 records that petitioners have 10 feet wide road on boundaries of Umrani and Khojanwadi village. However, this situation is diluted in subsequent panchanama dated 16.07.2024, which suggests that during rainy season, use of existing 10 feet way is blocked due to water logging.

11. On *prima facie* consideration of aforesaid material, Trial Court as well as Appellate Court recorded findings that plaintiff has made out *prima facie* case as regards to erroneous exercise of jurisdiction by Tahsildar under Section 143 of MLR Code and granted temporary injunction in favour of respondent no.1. This Court finds that view

taken by Courts below is based on appreciation of material on record. No perversity is discernible in impugned orders. No case is made out to exercise jurisdiction under Article 227 of Constitution of India.

12. In result, Writ Petition stands rejected. However, in facts of case Trial Court shall endeavour to expeditiously decide Regular Civil Suit No.166/2024 and in any case, within a period of one year from date of this order.

13. Parties to co-operate.

14. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE