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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 14545 OF 2024

Pattusha Pandurang Pawar & Ors

...Petitioners

Versus

Haridas Trimbak Kshirsagar & Ors

...Respondents

Mr. Shrishail Sakhare, for the Petitioner.

CORAM: N. J. JAMADAR, J.

DATE: 30th JANUARY 2025

ORDER:-

1. Heard the learned Counsel for the Petitioners.
2. This Petition under Article 227 of the Constitution of India calls in question the legality, propriety and correctness of a Judgment and Order passed by the learned District Judge, Solapur in Misc Civil Appeal No. 107 of 2023 dismissing Appeal preferred by the Petitioner by affirming the order dated 25th October 2023 passed by the learned Civil Judge on an Application for temporary injunction (Exhibit "5") in RCS No. 922 of 2023 thereby restraining the Petitioners from causing obstruction to the possession and enjoyment of the Respondents-Plaintiffs of the property described in paragraph 1A and 1B of the Plaint.

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3. Mr. Sakhare, learned Counsel for the Petitioners, urged that the learned Civil Judge as well as the learned District Judge failed to properly appreciate the import of an order passed by the Sub Divisional Officer (“SDO”) in Revision Application No. 19 of 2015; clearly recording that the obstruction to the access of the Petitioners-Defendants over the disputed way was evident from the material on record. The learned Civil Judge as well as learned District Judge have unjustifiably discarded the aforesaid finding.

4. At the outset, it is necessary to note that there are concurrent *prima facie* findings of facts that the Defendants are causing obstruction to the enjoyment of Plaintiffs over the suit property 1A and 1B, and the Petitioners-Defendants failed to establish that a way exists from the point of BAEGI shown in the map. These *prima facie* findings of facts are not open for interference in exercise of the supervisory jurisdiction.

5. Moreover, it becomes evident that the learned District Judge has dealt with order passed by the SDO, on which strong reliance was placed by Mr. Sakhare to advance the cause of the Petitioners. It was in terms noted that the order passed by the SDO lacks clarity. Upon a perusal of the order passed by SDO, this Court also finds that the assessment of the learned District Judge is not far off.

6. To put it in other words, the courts below have returned findings based on material on record that the Plaintiffs have made out a *prima*

facie case and in the event injunction is not granted they would suffer irreparable loss. And these orders do not suffer from such error as to warrant exercise of supervisory jurisdiction to interfere with the discretionary orders.

7. Hence, the following order.

ORDER

- (i) The Petition stands dismissed.
- (ii) No costs.

[N. J. JAMADAR, J.]