

Arun Sankpal

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15211 OF 2024

Vimal Dharmaji Shinde

..Petitioner

Versus

Gajanan Limba Shinde & Ors

...Respondents

Mr. Niranjan Bhavake, with Drishti Madhani, Swamini Thakur and
Anurag Ramekar, i/b Bhavake and Associate Advocates , for the
Petitioner.

CORAM: N. J. JAMADAR, J.

DATED : 8th APRIL 2025

P.C.:

- 1.** Heard the learned Counsel for the Petitioner.
- 2.** The challenge in this Petition is to a judgment and order dated 2nd March 2024 passed by the learned District Judge, Malshiras, District Solapur, in Misc Civil Appeal No. 31 of 2022, whereby the Appeal preferred by the Petitioner-Defendant No.1 came to be dismissed affirming the order passed by the learned Civil Judge, Junior Division, Malshiras, in RCS No. 493 of 2022, thereby restraining the Petitioner from creating any new road from the suit property and obstructing the possession of the Plaintiff over the suit property till the final disposal of the Suit.

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3. By the said order, the Trial Court has also directed the appointment of Court Commissioner to have site inspection and submit a report to the Court. Pursuant to the order passed by the Trial Court, the Court Commissioner has executed the commission and submitted a report to the Court.

4. Thereafter, by the impugned order, the Appeal preferred by the Petitioner also came to be dismissed.

5. The situation which thus obtains is that the order of injunction operates since 3rd November 2022. Both the Courts below have recorded a finding that whether the Tahsildar could have granted right of way through the suit land is a matter which requires adjudication, post evidence.

6. In these circumstances, at this stage, there is no priority in entertaining the Petition as the injunction has been in operation for over two and half years. It would be, therefore, be expedient in the interest of justice that the suit itself be decided expeditiously.

7. Hence the following order:

(i) Petition stands disposed.

(ii) The learned Civil Judge, Junior Division, Malshiras, seized with RCS No. 493 of 2022 is requested to hear and decide the suit as expeditiously as possible and preferably within a period of six months from the date of appearance of the parties.

(iii) The parties shall appear before the learned Civil Judge on 10th June 2025.

[N. J. JAMADAR, J.]