

SAINATH

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

WRIT PETITION NO. 6012 OF 2025

Dipali Vijay Bhadale & Ors. ..Petitioners

Versus

Vinay Balasaheb Ghule & Ors. ...Respondents

Mr. Anil Sakhare, Senior Advocate, Mr. Drupad S. Patil, for
Petitioner.

Mr. Atul Damle, Senior Advocate a/w Ms. Surbhi Agrawal &
Mr. Sagar Paspohe, for Respondent Nos. 1 & 2.

Mr. Rajesh Tekale, for Respondent No. 3

Mr. Viraj Bhadale – Defendant No. 3 present in person.

CORAM: N. J. JAMADAR, J.

DATE : 17th DECEMBER 2025

P.C.:

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to a judgment and order dated 16th April, 2025 passed by the learned District Judge, Pune whereby the appeal preferred by the petitioners against an order passed by the Trial Court thereby restraining the petitioners/Defendant Nos. 1 to 3 from carrying out unauthorized construction over the suit premises admeasuring 80 R, out of Survey No. 153-A Hissa No. 6, 7 and 8.
3. The petitioner No. 1/Defendant No. 1 is the sister of Respondent No. 1/Plaintiff No. 1. The land bearing Survey No.

153-A Hissa Nos. 6, 7 and 8 is the ancestral property of the Plaintiff No. 1 and Defendant No. 1. 80R land out of Survey No. 153-A Hissa Nos. 6, 7 and 8 came to be allotted to the share of Defendant No. 1. The Plaintiff No. 1 has left a 20 feet wide road for the access to the lands out of the lands allotted to the share of the plaintiff. The ownership of the said road vests with the Plaintiff No. 1. Only a right of user of the said 20 feet wide road has been given to the Defendant No. 1. The plaintiffs instituted the suit with the assertions that, the defendants were carrying out unauthorized construction over the suit premises and threatened to infringe the rights of the plaintiffs over the said 20 feet wide road.

4. The Trial Court has granted the injunction as, at that stage, the Trial Court found that, the Planning Authority had not sanctioned the plan to carry out the construction. The Appellate Court concurred with the view of the Trial Court and dismissed the appeal preferred by the plaintiffs.

5. Mr. Sakhare, the learned Senior Advocate for the petitioners, submits that, in the intervening period, PMRDA - the Planning Authority, has approved the plan for construction of the farm house over the suit premises. In accordance with the

said sanctioned plan, the petitioners intend to carry out construction to the extent of 320 sq.mtr., over the total plot area of 8,000 sq.mtr.

6. The Defendant No. 3 has filed an affidavit. In the said affidavit, the Defendant No. 3 has made a statement that, the Defendants would not use the 20 feet wide road for parking purpose and the said 20 feet wide road would be used only for access to their respective fields and the defendants will not claim equities.

7. Mr. Damle, the learned Senior Advocate for the respondents, invited attention of the Court to a notice dated 28th June, 2024 addressed by the Planning Authority to the respondent No. 1/Plaintiff No. 1 along with spot inspection report which indicated that, the construction was to the tune of 5,400 square feet.

8. Evidently, there is no dispute over the ownership of the suit premises. The controversy between the parties revolves around the nature and extent of the construction to be carried out over the suit premises. It was the grievance of the plaintiffs that the Defendants were carrying out unauthorized

construction. The Planning Authority, has *now* permitted the plaintiffs to carry out construction to the extent of 320 sq.mtr.

9. It is well recognized that, the Court is required to take cautious cognizance of the subsequent events and mould the relief, especially while considering the prayer for equitable reliefs. The situation seems to have substantially altered with the Planning Authority granting sanction for the construction of farm house over the suit premises for an area of 320 sq.mtr., only. It appears that, a substantial margin has also been left from the 20 feet wide access road.

11. In these circumstances, the Court considers it appropriate to modify the injunction granted by the Trial Court and affirmed by the Appellate Court to the effect that, the petitioners shall strictly adhere to the sanctioned plan and carry out the construction in conformity with the sanctioned plan only.

12. The statement made by Defendant No. 3, who is present in Court, that the construction will be carried out strictly in accordance with the sanctioned plan, is accepted as an undertaking to the Court.

13. In case the construction is not carried out in accordance with the sanctioned plan, and there is breach of the undertaking, the plaintiffs would be at liberty to file an appropriate application before the Trial Court.

14. The petition stands **disposed**.

[N. J. JAMADAR, J.]