

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14898 OF 2025

Talegaon Industrial Parks Pvt Ltd Through
Its Authorized Signatory

...Petitioner

Versus

Samyakth Estates Limited Through Its
Managing Director and Ors.

...Respondents

Mr. Girish Godbole, Senior Counsel, a/w M. Srinivas Chatti,
Aishwarya Wagle, Ved Thakur, Akash Ganapathy, i/b
Cyril Amarchand Mangaldas, for the Petitioner.

Mr. Pravin Samdani, Senior Advocate, i/b Madhur Surana, for
Respondent No.1.

Mr. Mayur Khandeparkar, a/w Dhiraj Gole, i/b C. N. Gole, for
Respondent No.2.

CORAM: N. J. JAMADAR, J.

DATED: 20th NOVEMBER, 2025

Order:-

1. By this petition under Article 227 of the Constitution of India, the petitioner – plaintiff assails the legality, propriety and correctness of a judgment and order passed by the the learned District Judge, Pune, in Misc. Civil Appeal No.12/2025, whereby the appeal preferred by the petitioner against an order dated 1st April, 2025 passed by the learned Civil Judge rejecting an application for temporary injunction filed by the petitioner in Regular Civil Suit No.50 of 2025, came to be dismissed.

2. The petitioner is engaged in the business of development and construction of the industrial/warehousing/logistic sheds and other infrastructure. The petitioner has acquired various parcels of lands admeasuring 10,39,239.30 sq. mtrs. (103.92 ha) (the larger area), located at villages Navlakh Umbre and Badhalwadi, Maval Taluka, District Pune. The said larger area has been notified as Integrated Industrial Area by Maharashtra Industrial Development Corporation ("MIDC"). The larger area encompasses a project area of 9,95,400 sq. mtrs. which is connected to the public road (M.D.R.15 Talegaon - Chakan Road) by an 18 mtr. wide road constructed by the petitioner exclusively, admeasuring 44,869.3 sq. mtrs.

3. The petitioner claims that the petitioner has constructed the said 18 mtr. Wide road ("the suit way") after acquiring permanent rights of way/easement over the respective parcels of land through right of way agreements executed with various owners of the underlying lands. Respondent Nos.1 and 2 – defendant Nos.1 and 2, whose lands are located around the Integrated Industrial Area have started using the suit way without obtaining any permission from the plaintiff and have also allegedly unlawfully demolished the fencing erected by the

petitioner. Hence, the petitioner instituted the suit to restrain the defendants from using the way road in any manner.

4. In the said suit, the plaintiff took out an application for temporary injunction. By an order dated 1st April, 2025, the learned Civil Judge rejected the application observing, *inter alia*, that few of the instruments on the strength of which the petitioner claimed to have acquired the exclusive right of way were not registered under the provisions of the Registration Act, 1908, and, therefore, the bar under Section 49 of the Registration Act, 1908 was attracted. Secondly, there were a series of admissions by the plaintiff which indicated that the plaintiff conceded that the plaintiff was not entitled to use the suit way exclusively. Thus, neither a *prima facie* case was made out nor the element of balance of convenience and irreparable loss was found in favour of the plaintiff.

5. Being aggrieved, the plaintiff preferred an appeal before the District Court. By the impugned judgment and order, the learned District Judge found no reason to interfere with the exercise of discretion by the trial Court.

6. Mr. Godbole, the learned Senior Counsel for the petitioner, submitted that both the courts have proceeded on an incorrect premise that an easement granted by a document is required to

be registered. Reliance was placed on a judgment of a learned Single Judge of this Court in the case of *Pandhari vs. Motiram Jayram Deogade*¹, wherein after adverting to the provisions contained in Section 6(c) of the Transfer of Property Act, 1882, which proscribes transfer of an easement apart from the dominant heritage, it was enunciated that, in the absence of any of the rights in the property being transferred, easement can also be granted orally. If that be so, there is no requirement that, if any easement is granted by a document, same should be duly registered.

7. Secondly, Mr. Godbole would urge, courts below have misconceived the orders under which the District Collector granted permission for conversion of the land for non-agricultural use, and the permission granted by the Town Planning Department for development of the Integrated Industrial Area.

8. Mr. Samdani, the learned Senior Advocate for respondent No.1, countered the submissions on behalf of the petitioner. It was urged that the courts below have recorded *prima facie* findings on the basis of material on record and such exercise of discretion is not open for correction in exercise of the

¹ 2018 SCC Online Bom 3027.

supervisory jurisdiction. Emphasis was laid on the purported admissions on behalf of the plaintiff.

9. Mr. Khandeparkar, the learned Counsel for respondent No.2, supplemented the submissions of Mr. Samdani.

10. To begin with, it is necessary to keep in view the limitations on the exercise of supervisory jurisdiction. In exercise of the writ jurisdiction, which is undoubtedly of wide amplitude, this Court is not expected to review, re-appreciate and re-weigh the material/evidence on the basis of which the courts below have arrived at the findings, and substitute its view for the one taken by the courts. The jurisdiction is essentially corrective in nature. Neither the erroneous findings of facts nor mere errors of law are open for correction in exercise of writ jurisdiction.

11. On the aforesaid touchstone, if the legality, propriety and correctness of the impugned orders is tested, it becomes evident that the courts below have arrived at *prima facie* findings on the basis of objective material in the form of the orders granting permission for conversion of the land for non-agricultural use, and the planning authorities. For instance, the NA conversion order records that the plaintiff would keep the roads and open spaces in the sanctioned lay-out open for the use of the public.

And the roads would be kept open for use by the adjoining land holders.

12. Mr. Godbole made an endeavour to urge that the condition would apply to the roads within the precincts of the Integrated Industrial Area but not to the suit way, which has been exclusively developed by the petitioner. *Prima facie*, the submission appears incongruous.

13. Secondly, the instrument under which the plaintiff has transferred a part of the larger property in favour of the Hundai Travel Car Automotive India Pvt. Ltd., records that the plaintiff has a non-exclusive right to use the internal lay-out access road for ingress and egress to and from PWD road (public road) leading upto the scheduled property, which was part of larger property. Thirdly, in the wake of the dispute, both MIDC which had issued the Notification for Integrated Industrial Area, and Pune Metropolitan Regional Development Authority, have clarified that while obtaining the permission for the development of the Integrated Industrial Area a condition was imposed that the suit way would be kept open for use by adjoining landholders.

14. Mr. Godbole attempted to salvage the position by urging that those communications were not even addressed to the

plaintiff. It appears that MIDC addressed the communication to the Sarpanch of the village Navlakh Umbre Village Panchayat on 8th June, 2022 and PMRDA on 30th July, 2018. These communications imply that the dispute qua the suit way has arisen prior to a couple of years and the respondents and others were asserting the right to use the suit way.

15. Thus, the courts below were justified in drawing an inference that the plaintiff failed to make out a *prima facie* case, even if the aspect of the non-admissibility of the documents under which the Plaintiff claimed to have acquired easementary right, for want of registration, is kept aside. Even otherwise, the balance of convenience does not tilt in favour of the plaintiff. Likewise, the defendants and others would suffer irreparable loss if an injunction is granted in favour of the plaintiff.

16. For the foregoing reasons, no interference is warranted with the impugned order in exercise of the supervisory jurisdiction.

17. The petition, thus, stands dismissed.

[N. J. JAMADAR, J.]