



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14930 OF 2025**

Ashok Kisan Jagtap and Anr. ... Petitioners
versus
Rajendra Dnyandeo Patole ... Respondent

Mr. Sagar Nagarkar with Mr. N.S.Bobade, for Petitioners.
Mr. Nilesh Wable, for Respondent.

CORAM: N.J.JAMADAR, J.

DATE : 4 NOVEMBER 2025

ORAL ORDER :

1. Heard the learned Counsel for the Petitioners.
2. The challenge in this Petition is to a judgment and order dated 10 October 2025, passed by the learned District Judge, Baramati, Pune, in Misc. Civil Appeal No.57 of 2025, whereby the learned District Judge dismissed the appeal preferred by the Petitioners against an order passed by the learned Civil Judge, on an application for temporary injunction in Regular Civil Suit No.383 of 2025 preferred by the Petitioners, thereby rejecting the application for temporary injunction.
3. The said suit has been instituted by the Petitioners seeking declaration that the order passed by the Mamlatdar in Proceedings No.12 of 2023 dated 8 August 2025 under the provisions of the Mamlatdar's Court Act, 1906, is illegal and void and does not bind the Plaintiffs, and the consequential relief of

injunction. In the said suit, the Petitioners took out an application for interim injunction to stay the execution, operation and implementation of the order dated 8 August 2025, passed by the Mamlatdar, till the final disposal of the suit.

4. By an order dated 8 August 2025 in Application No.12 of 2023, the Mamlatdar directed the Respondents – Petitioners herein, to remove the impediment in access to the road leading to Gat No.39. The Mamlatdar took into account the statements of the witnesses and the spot inspection report, which indicated that the subject road was in existence and the Petitioners had erected impediments.

5. Learned Counsel for the Petitioners submitted that there was fundamental defect in the procedure adopted by the Mamlatdar, in as much as the Petitioners were not given an opportunity to cross-examine the witnesses. Learned Civil Judge and the learned District Judge were in error in placing reliance on the record before the Mamlatdar and declined to stay the execution and operation of the order passed by the Mamlatdar. Reliance was placed on a judgment of the learned Single Judge of this court in the case of **Sudhir Yashwant Dhangade V/s. Ankush Kashiram Bole and Ors.**¹, wherein this Court, inter alia, observed that under the provisions of Section 19 of the Mamlatdar's Court Act, 1906, a party is entitled to cross-

1 2019 SCC Online Bom 18

examine the Plaintiffs and his witnesses and the order passed by the Mamlatdar without providing such opportunity to cross-examine the witnesses cannot be sustained.

6. I have perused the order passed by the learned Civil Judge and the impugned order passed by the learned District Judge. Both the Courts have recorded prima facie concurrent findings of fact that, there was adequate material to show that the road was in existence and the Petitioner had caused obstruction to Defendant's access. The contention on behalf of the Petitioners that there was an alternate road to access land bearing Gat No.39, could not be substantiated.

7. In the face of the material on record, especially, the spot inspection report before the Mamlatdar and the documents which evidence the existence of the road, the Courts below have taken a correct view of the matter. In exercise of the writ jurisdiction, this Court does not find any infirmity in the exercise of the discretion by the Courts below.

8. The question as to whether the denial of the opportunity to cross-examine the witnesses caused such grave prejudice so as to vitiate the entire order passed by the learned Civil Judge, would be a matter for adjudication at the trial. It is trite that, even when there is a procedural infraction, the order cannot be thrown overboard unless the party complaining of the procedural infraction is able to establish that it has suffered prejudice.

9. A useful reference in this context can be made to a judgment of the Supreme Court in the case of **State of Uttar Pradesh V/s. Sudhir Kumar Singh and Ors.**².

10. In view of the above, this Court does not find any propriety in entertaining the Petition.

11. The Writ Petition, thus, stands dismissed.

12. However, the learned Civil Judge is requested to make an endeavour to hear and decide decide the suit as expeditiously as possible.

(N.J.JAMADAR, J.)

² (2021) 19 SCC 706