

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

WRIT PETITION NO.16742 OF 2025

Bhagwan Kisan Gadadare and Anr. ... Petitioners

versus

State of Maharashtra and Ors. ... Respondents

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SHARAD
PHADKE

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Mr. Shriram Kulkarni with Mr. Sachin Chavan, for Petitioners.

Mr. O.A.Chandurkar, Addl.Govt. Pleader with Mrs. G.R.Raghuwanshi, AGP for Respondent Nos.1 and 2.

Mr. Sujay H. Gangal for Respondent Nos.3.6, 11 to 25, 28 to 30.

CORAM: N.J.JAMADAR, J.

DATE : 16 DECEMBER 2025

P.C.

1. Heard the learned Counsel for the parties.
2. The challenge in this Petition is to the concurrent orders passed by the Trial Court and the Appellate Court, thereby rejecting the application preferred by the Petitioners – Plaintiffs to stay the execution and operation of the order dated 25 June 2024 passed by the Tahasildar, Baramati, under Section 5 of the Mamlatdars' Courts Act, 1906.
3. By the said order dated 25 June 2024, the Tahasildar directed the removal of impediment in the access to Gadadarwadi gaathan to Lakdewasti road which runs through Gat Nos.307, 407, 55, 410 and 411 Gadadarwadi. The Petitioners were impleaded as Respondent Nos.72 and 73 in the said

application.

4. The Petitioners had initially filed Revision application before the Sub-Divisional Officer, Baramati. However, the said Revision was withdrawn and by availing the remedy provided under Section 21 of the Act, 1906, the Petitioners have instituted the instant suit for perpetual injunction to restrain Defendant Nos.3 to 31 from acting upon the said order passed by the Mamlatdar and creating a road from Gat Nos.410 and 407. In the said suit, the Petitioners have filed an application for temporary injunction.

5. By an order dated 4 February 2025, learned Civil Judge was persuaded to reject the application observing that, the material on record clearly indicated that the Petitioners had caused obstruction in the access to the said road by erecting wire-fencing and dumping stones. Learned District Judge did not find any reason to interfere with the exercise of discretion by the Trial Court.

6. Mr. Kulkarni, learned Counsel for the Petitioners, would submit that, initially the Petitioners were not impleaded as party Respondents to the application before the Tahasildar. The spot inspection, on the basis of which the Tahasildar has passed the said order dated 25 June 2024, was carried out behind the back of the Petitioners. Moreover, the application under Section 5 of the Act, 1906, was not tenable before the Tahasildar as on the own showing of the Applicants therein, the impediment was caused prior to two

years of the institution of the suit. Therefore, the application was clearly barred by limitation under Section 3 of the Limitation Act.

7. I find it difficult to accede to the aforesaid submissions of Mr. Kulkarni. The courts below have recorded objective findings on the basis of the material on record, which indicated both the existence of the road and the impediment caused by the Petitioners. The spot inspection report prepared during the pendency of the proceedings before the Tahasildar, clearly records the said facts. Once these twin factors were, *prima facie*, found to exist, the learned Civil Judge was justified in declining to grant stay to the execution and operation of the said order passed by the Tahasildar.

8. The Courts below have also dealt with the submission that the application was barred by limitation. On the basis of the averments in the said application and the material brought on record, the Courts have noted that there was an inadvertent error in the initial pleadings and, in fact, it was claimed that the impediment was caused prior to two months of the filing of the application.

9. In exercise of supervisory jurisdiction, especially when the Courts below have recorded concurrent *prima facie* findings of facts and exercised positive discretion, this Court would not be justified in re-appreciating and re-weighing the evidence as an appellate Court. There is neither any patent error in the exercise of discretion, nor the Court finds that the discretion has been

exercised against the settled principles of law.

10. Resultantly, the Writ Petition does not deserve to be entertained.

11. Accordingly, the Writ Petition stands dismissed.

(N.J.JAMADAR, J.)