



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 7885 of 2023

[Umesh S/o. Shrikrushna Madavi and ors. ..vs.. Santosh S/o. Tulshiram
Istape and ors.]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. N. S. Bhattad, Advocate for the petitioners
Mr. A. V. Band, Advocate for respondent nos. 1 to 3
Mr. A. V. Palshikar, AGP for respondent nos. 4 and 5

CORAM : ANIL L. PANSARE J.

DATED : 18-06-2025

In view of pendency of appeal against order dated 17-12-2022 passed below Exhibit 5 by the trial Court in Regular Civil Suit No. 24/2022, leave to delete the portion “order dated 17.12.2022 passed by Hon’ble Civil Judge Sr. Dn., Akot below Exh. 5” in prayer clause **b** is granted. Necessary corrections be carried out forthwith.

2. Having heard both sides, it appears that the proceedings between the parties are pending before the Mamlatdar. Various orders were passed. Respondent nos. 1 and 2 filed revision against the order passed by Mamlatdar, which came to be allowed and matter was remanded back to Mamlatdar. The petitioners filed application seeking review of the order passed by the revisional authority which is pending before respondent no. 5 herein. Pending revision, respondent nos. 1 to 3 filed suit being Regular Civil Suit No. 24/2022 against the petitioners herein seeking following prayers.

“i. to decree the suit by passing declaration that the plaintiff no.3 is the owner of agricultural field Gut no. 180 of village Bordi Tq. Akot Dist. Akola and therefore, in the absence of statutory provision permitting review of order passed in revision u/s. 23 of the Mamlatdars Court Act, the defendant

no.12 is not entitled to continue the review proceeding against order dated 14.1.2022 passed by him in Rev. Case No MCA-23/Bordi/03/2019-2020 by undertaking personal inquiry and therefore, any inquiry in the said proceeding is liable to be declared as illegal and therefore, null and void-abinitio.

- ii. to decree the suit by passing permanent injunction against defendant no. 12 directing him to stop the review proceeding in Rev. Case MCA-23/Bordi/03/2019-2020 which is fixed for 26.2.2022 for inspection of spot and thereafter, till the disposal of present suit.*
- iii. to decree the suit by passing permanent injunction restraining defendant nos. 1 to 10 either from entering or in any way disturbing or passing over the agricultural field Gut no. 180 belonging to plaintiff no.3 under any grab or for any reason till the matter is judicially and finally decided.*
- iv. To grant any other relief which this Hon,ble court deems fit in the facts and circumstances of the case.”*

3. Learned counsel for the petitioners submits that these prayers are not maintainable because respondent nos. 1 to 3 are seeking declaration that review proceedings in revision case pending before respondent no. 5 are illegal and null and void and secondly, to stop the review proceedings. As against, learned counsel for respondent nos. 1 to 3 submits that in addition to aforesaid prayers, respondent nos. 1 to 3 have also sought declaration of ownership as also injunction.

4. To my mind, the prayers as regards declaration of review proceedings as illegal, null and void as also to stop review proceedings as mentioned in prayer clause (i) and (ii) above are prayers which cannot be legally sought in a suit, in the sense, the party cannot impede the legal proceedings pending before appropriate authority. However, so far as

declaration of ownership and the injunction as mentioned in first part of prayer clause (i) and in prayer clause (iii) respectively will be definitely maintainable and suit accordingly can be filed.

5. In the circumstances, the purpose will be served, if it is clarified that the suit filed by respondent nos. 1 to 3 shall continue for the relief of declaration of ownership of plaintiff no. 3 as also the prayer for permanent injunction as made in prayer clause (iii). Rest of the prayers stands rejected as not maintainable.

6. Writ petition is disposed of in above terms with no order as to costs.

(Anil L. Pansare, J.)