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

WRIT PETITION NO. 1618 OF 2025
(Amol s/o Dhanraj Kohale Vs. Pandurang s/o Manikrao Nikam)

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's Orders.	Court's or Judge's orders.

Mr. S.S. Shingane, Counsel for the petitioner.

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CORAM : ANIL L. PANSARE, J.
MARCH 25, 2025

Heard.

2] The respondent - plaintiff filed a suit against the petitioner – defendant for declaration and permanent injunction to have approach to his field being Gat No. 400 through the field bearing Gat No. 401 belonging to the petitioner. The land bearing Gat No. 400 was originally owned by the respondent's brother, and while he sold the property to the petitioner, a recital was made that there will be approach road to the field of the respondent from the northern boundary of the field belonging to the respondent's brother (now the petitioner). The recital indicates that this approach road will travel east-west from the northern side of field being Gat No. 401 belonging to the petitioner.

3] The argument is that the respondent, under the garb of this approach road, is attempting to approach his field, not from the northern side but from within the field belonging to the petitioner, which has potential to uproot sweet lemon trees standing in the field. The trial Court had rejected the application, however, the First

Appellate Court allowed the same. He further submits that the respondent is all set to take action to construct the road by uprooting the trees that are standing in the alleged approach road.

4] It is worth mentioning here that the suit was filed in the year 2021, the appeal against the order passed by the trial Court was filed in the year 2022, but registered in the year 2023, and the order impugned has been passed in March – 2025, meaning thereby, that for all these years, i.e., from 2021 to 2025, the respondent managed to cultivate his filed without there being present approach road available to him.

5] Issue notice to the respondent returnable on 15/4/2025.

6] In the meantime, there shall be stay to the impugned judgment and order dated 11/3/2025 passed by the District Judge – 1 & Addl. Sessions Judge, Warud, in Misc. Civil Appeal No. 4/2023.

(ANIL L. PANSARE, J.)

Sumit

Signed by: Mr. Sumit Agrawal
Designation: PA To Honourable Judge
Date: 25/03/2025 18:20:53