



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.5709 OF 2024

Chandrakant s/o. Bhaurao Londhe
and others

..Petitioners

Vs.

Parmeshwar s/o. Laxman Sawant
and others

..Respondents

Mr.Manish P. Tripathi, Advocate h/f. Mr.Anand P. Phatale, Advocate for
petitioners

Mr.P.K.Deshmukh, Advocate for respondent nos.1 to 3

CORAM : AJIT B. KADETHANKAR, J.
DATE : MARCH 11, 2026

ORDER :-

The respondents are the owners and possessors of the land admeasuring 1 H and 14 R, situated in Gut No.7, village Saundana (Dhoki), Tq.Kallam, Dist. Dharashiv. There had been a controversy between the petitioners and the respondents over an alleged pathway passing through the suit field which was used by the petitioners to approach their own field. Some proceedings under the Mamlatdar' Courts Act, 1906 ("Act of 1906" for brevity) was instituted at the behest of the petitioners and a panchnama was also accordingly prepared. While the proceedings under the Act of 1906 was in progress, the respondents instituted present Regular Civil Suit No.573 of 2023 in the

court of learned Civil Judge, Senior Division, Kallam, seeking injunction against the present petitioners. During pendency of the suit, the plaintiffs filed an application under Order 39 Rules 1 and 2 read with Section 151 of the Code of Civil Procedure seeking temporary injunction against the petitioners during pendency of the suit. While the proceedings were pending, an order under the Act of 1906 came to be passed against the plaintiffs. Placing reliance on that order as also the panchnama that was considered by the Mamlatdar's Court, the learned trial Court found that the application was not fit to be granted. As such, the application came to be turned down. As against the rejection of the application seeking temporary injunction, Misc. Civil Appeal No.84 of 2023 came to be filed by the respondents/plaintiffs in the court of learned District Judge - 1, Kallam. Learned District Judge, however, took exception to the findings recorded by the learned trial Court and reversed the same. Resultantly, on 16.04.2024, learned District Judge allowed the appeal and imposed temporary injunction against the present petitioners from interfering into peaceful possession of the respondents/plaintiffs in respect of the suit field. Failing aggrieved thereby, the petitioners/defendants are before this court.

2. Mr.Tripathi, learned counsel appearing for the petitioners/defendants, would submit that the findings of the learned trial Court are based on the actual panchnama that was drawn by the panchas in the proceedings under the Act of 1906. He would justify the findings rendered by the learned trial court on the basis of the panchnama and the order passed under the Act of 1906. He would further submit that there was no reason for learned District Judge to reverse those findings and hence, the impugned order may be quashed and set aside. He would submit that the petitioners are farmers and very soon the next harvesting season would be in operation and hence, it is just and appropriate to quash and set aside the impugned order whereby the petitioners would be entitled to have approach to their field through the pathway that goes to the suit field.

3. Mr.P.K.Deshmukh, learned counsel for the respondents/plaintiffs, would however vehemently object this argument. He would submit that the findings recorded by learned trial court were erroneous. Mr.Deshmukh further submits that the learned District Court has rightly assessed the documents on record and arrived at the conclusion that the petitioners could not prove even prima facie that there was a pathway that was passing through

to the suit fields of the respondents. With this, Mr. Deshmukh, learned counsel for the respondents prays to dismiss the petition.

4. I have extensively heard learned counsel for the parties. With the able assistance of learned counsel, I have gone through the documents produced on record which include the reply affidavit filed by the respondents.

5. It is pertinent to note that the Trial Court while considering the application filed by the plaintiffs for temporary injunction has placed heavily reliance on the proceedings those were conducted under the Act of 1906. The Trial Court has specifically referred to the panchnama wherein it was mentioned that there was a pathway indeed that was passing through the suit field. On this count, the application came to be turned down. While examining the correctness of these documents, learned District Judge has too visited the contents of the panchnama. Learned District Judge has recorded that the suit field is gut no.7 at village Saundala (Dhoki), Tq. Kallam. The panchnama which is on record does not speak about the panchnama that is conducted in respect of the land gut no.7. At no place the panchhas have stated that any such pathway was ever existing in the gut no.7 which is suit property. On the other hand, reference is given to gut no.8. On a query, learned counsel for the

petitioners would fairly submit that the notice of the panchnama was not given to the other side i.e. present respondents. The panchnama purportedly bears the signature of the respondents.

6. Learned District Judge, in my opinion, has rightly assessed the documents on record considering the controversy that is pending between the parties. The issue relates as to alleged obstruction by the respondents/plaintiffs to the present petitioners from using the allegedly existing pathway in the suit field. A reference has been heavily made to the proceedings under the Act of 1906. It is trite law that the findings of the Civil Court will be of conclusive value and having binding force on such proceedings. That apart, on facts also the panchnama prepared under the Act of 1906 does not refer to the suit field and hence, I concur with the findings rendered by the learned District Judge that the panchnama shall not come to the help of the present petitioners so as to infer that there was some pathway that was passing through the suit field Gut No.7 which allegedly being utilised by the present petitioners.

7. In view of the above, I find that no case for interference in the impugned order is made out by the petitioners. Hence, the petition stands dismissed.

8. Learned counsel for the petitioners, at this juncture, submits that all the parties to the litigation are farmers and the issue is nothing else than only the use of pathway. He submits that considering the coming harvesting season, the learned trial court may be directed to conclude the suit proceedings as early as possible.

9. In view of the above, learned trial court is requested to make every endeavour to conclude the suit proceedings as early as possible, if all the parties assist the the trial court for early disposal of the suit.

[AJIT B. KADETHANKAR, J.]

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