



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

WRIT PETITION NO. 1589 OF 2026

M/s Malara Sabriya And Rathi Developers Through Its Partner

VERSUS

The State Of Maharashtra And Others

Mr. N. D. Sonavane, Advocate for petitioner

Mr. A. M. Phule, AGP for respondent No. 3

**CORAM : Smt. Vibha Kankanwadi &
Hiten S. Venegavkar, JJ.**

DATE : 12th March, 2026

PER COURT :-

1. Present petition has been filed for restraining respondents from constructing road on Plot No. 105 admeasuring 174 sq.m. in Gat No. 213 of village Satara Tq. and Dist. Chhatrapati Sambhajinagar without following due process of law and without paying compensation for acquisition. The alternate or second simultaneous prayer is that to direct respondent No. 2 to decide the representation of the petitioner dated 19.12.2025 and direction to respondent No. 5 to decide representation dated 21.08.2025.

2. Heard learned Advocate for the petitioner and learned AGP for respondent Nos. 1 and 3. There is no necessity to issue notice to the respondents.

3. The petitioner has placed on record sale deed dated 20.08.2001 to show his ownership; however, it appears that the petitioner had filed R.C.S. No. 1664 of 2012 before learned Civil Judge Senior Division, Aurangabad for declaration and injunction. That suit came to be dismissed on 19.10.2026. The issue No. 1 before the trial Court was "Whether plaintiff prove that Deolai-Satara Road was constructed by defendants illegally, and it had no deviation in Plot No. 105, Gat No. 213?" It has been answered in the negative. The observation of the trial Court are "on this point it is expected from plaintiff to prove his title over the suit property. In sequel there is no documentary evidence brought on record by the plaintiff which could focus on this point, as and when plaintiff purchased the suit property and from whom?" Therefore, it was held that the plaintiff is not having title over the suit property. The petitioner thereafter filed R.C.A No. 300 of 2016 before the District Court, Aurangabad which came to be dismissed on 07.03.2019. In respect of the existence of the road, the point that was framed was "Whether the plaintiff has proved that the defendants have constructed the road in Gut No. 210 of 2013 by taking a diversion?" The finding is in the negative. Upon inquiry, learned Advocate for the petitioner submits that the petitioner has not challenged the decision of the appellate Court yet. Now, the petitioner has come with almost same prayer by way of present writ petition. As regards the prayer Clause B is

concerned, when disinclination is shown to grant prayer Clause 'B', the learned Advocate for the petitioner submitted that the respondent Nos. 2 and 5 be directed to decide the representation filed by the petitioner. However, as aforesaid, the petitioner has already approached Civil Court and some findings have been given. In such circumstance, it will not be appropriate to burden respondent Nos. 2 and 5 to decide the representation.

4. After disinclination is shown to grant any relief in prayer clause 'C', the learned Advocate for the petitioner, upon instructions, seeks withdrawal of the petition to take up the available legal remedy in the form of filing second appeal and he seeks withdrawal of the present writ petition.

5. We allow petitioner to withdraw the writ petition to avail the legal remedy, if any.

6. Writ petition stands disposed of as withdrawn.

(Hiten S. Venegavkar, J.)

(Smt. Vibha Kankanwadi, J.)

B. S. Joshi