



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

WRIT PETITION NO. 2295 OF 2026

RUKHMINIBAI VISHWANATH DUDHATE
VERSUS
PIRAJI DIGAMBAR DUDHATE AND OTHERS

...
Mr. Akash D. Gade, Advocate for the Petitioner.
Mr. S. N. Kendre, AGP for Respondents-State.
Mr. V. B. Kulkarni i/by Mr. Shantanu A. Deshpande, Advocate for
Respondent No.7.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 18th MARCH, 2026.

P.C.:-

1. The present Writ Petition takes exception to order dated 10.02.2026 passed by District Judge, Parbhani in Miscellaneous Civil Appeal No.40/2025, whereby order dated 08.08.2025 passed below Exhibit-5 by Civil Judge Senior Division, Parbhani in Regular Civil Suit No.185/2025 has been quashed and set aside.

2. The petitioner is plaintiffs in Regular Civil Suit No.185/2025. The plaintiff instituted said suit seeking relief that order dated 09.06.2025 passed by Sub Divisional Officer, Gangakhed in File No.2025/ROR/A/CR-469, thereby granting way passing through Gut Nos.309 and 310 be quashed and set aside. The petitioner has also prayed to grant relief of permanent injunction from creating any road from his land situated in Gut No.316 to approach Gut Nos.309 and 310.

3. The record indicates that Sub Divisional Officer, Gangakhed passed order dated 13.06.2025, thereby setting aside order dated 06.01.2025 passed by Tahsildar and remanded matter back for his consideration under Section 5 of Mamlatdar's Courts Act. By clause no.4, he directed that till Tahsildar completes enquiry and passes final order, he shall grant way from bandh of Gut Nos.308 and 316 to approach land in Gut Nos.309 and 310.

4. The Trial Court allowed petitioner's application filed below Exhibit-5 in suit and restricted defendant no.3 i.e. Tahsildar from executing order dated 09.06.2025 passed by Sub Divisional Officer till disposal of suit. The respondents preferred Miscellaneous Civil Appeal before District Judge, which came to be allowed, thereby setting aside injunction order.

5. After hearing all concerned, Sub Divisional Officer remanded matter back to Tahsildar for detail enquiry in terms of Section 5 of Mamlatdar's Courts Act and only by way of interim arrangement directed that access way be given to respondents to approach their land Gut No.309 and 310 from bandh of Gut Nos.308 and 316. It is not case that learned Sub Divisional Officer had no jurisdiction to pass any order or order is passed in violation of principles of natural justice. Even otherwise, order is in nature of temporary arrangement and subject to final decision to be taken by Tahsildar in proceeding under Section 5 of Mamlatdar's Courts Act. The

District Judge has considered all relevant aspects of matter and found that exercise of jurisdiction by Trial Court was not in conformity with factual matrix and law governing grant of temporary injunction. The District Judge found that balance of convenience lies in favour of respondents, whereas petitioner would not suffer any irreparable loss.

6. In result, no jurisdictional error can be found in impugned order. Hence, Writ Petition stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/March-2026