# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
# CIRCUIT BENCH AT KOLHAPUR
# CIVIL APPELLATE JURISDICTION

## WRIT PETITION NO. 12834 OF 2025

Yuvraj Vitthal Lad ……Petitioner

*VERSUS*

The State Of Maharashtra And Ors. ……Respondents

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Mr. Satyajeet A. Rajeshirke a/w Mr. Gautam R. Kulkarni and Mr. Shubham R. Vasekar, for Petitioner.

Mr. Sanjay D. Rayrikar, AGP, for Respondent Nos.1 to 4 – State.

Ms. Divya A. Pawar – Patil a/w Ms. Trupti T. Padekar, for Respondent No.5.

SHANTANU SHANKARSA DHUDUM
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**CORAM : NITIN B. SURYAWANSHI, J.**

**DATE : 4th FEBRUARY, 2026.**

**P.C.**

1. This petition is filed under Articles 226 and 227 of the Constitution of India challenging the orders dated 11th November, 2025 and 8th December, 2025 passed by Respondent No.4 – Tahasildar and order dated 18th November, 2025 passed by Respondent No.3 – Sub-Divisional Officer, Kadegaon, District: Sangli, thereby directing the Petitioner to remove the alleged encroachment.

2. Brief facts leading to filing of the present petition are that the Petitioner is owner of land Gat No.2724 at village Kundal, Taluka Palus, District: Sangli admeasuring 7H 75 Are. It is the case of the

Petitioner that 40 feet road wide road passes though the land of the Petitioner towards south side, thereby dividing the land of the Petitioner into four parts. In the year 2014, some of the adjoining land owners filed a case before the Respondent No.4 - Tahasildar bearing case number Road/S.R./16/2014 under Section 5 of the Mamlatdar's Courts Act, 1906. In the said proceedings, the Petitioner's consent was recorded and the Petitioner gave 40 feet wide road from his land. According to the Petitioner, the said road is in existence and be used by the adjoining land owner.

3. Petitioner and 29 other villagers received notice dated 11th November, 2025 issued by the Respondent No.4 – Tahasildar stating that pursuant to the complaint made by the Respondent No.5, claiming a road through the middle of the land of the Petitioner, the Circle Officer, Kundal conducted spot inspection on 3rd October, 2025, he was of the opinion that without measurements, it would not be possible to come to conclusion whether a road has gone from the middle of the Petitioner's land or from the bandh/boundary. On 15th October, 2025, the Deputy Superintendent of Land Record has conducted the measurements and has opined that there is a encroachment on road. The Petitioner was therefore called upon to remove the encroachment on or before 18th November, 2025, otherwise on 20th November, 2025, the encroachment would be

forcibly removed. Thereafter, when the concerned officers came on the spot on 20th November, 2025, the Petitioner and concerned agriculturist agreed to amicably settle the dispute and requested to stop the removal of encroachment. However, since, there was no settlement, the Petitioner was again called upon to remove the encroachment on or before 14th December, 2025 otherwise, on 15th December, 2025 the encroachment would be removed in police protection.

4. Being aggrieved by this notice/order, the Petitioner has preferred this writ petition.

5. Heard learned advocate for the Petitioner, learned AGP for the Respondent Nos.1 to 4 – State and learned counsel for Respondent No.5. Perused the writ petition, memo, annexures and the impugned orders.

6. The impugned order is issued without giving an opportunity of hearing to the Petitioner hence, the same is in violation of principles of natural justice. The same is also without jurisdiction as no provision is quoted in the impugned notice/order which authorizes Respondent No.2 to issue the impugned order.

7. Learned AGP could not justify the action of the Respondent No.4 – Tahasildar, and was not in possession to point out the relevant

provisions which authorizes Respondent No.4 to issue the impugned notice/order.

8. Learned advocate for the Respondent No.5 strenuously urged that agriculturist are facing difficulty in using the road pointed out by the Petitioner as it has sharp turn. *Prima facie*, this submissions is unacceptable in view of the map placed on record.

9. Since the impugned notices/orders are without jurisdiction, and the same are issued inviolation of principles of natural justice, the same cannot be sustained in law in the facts of the present case.

10. In the result, the writ petition, is allowed.

11. Impugned orders dated 11th November, 2025 and 8th December, 2025 passed by Respondent No.4 – Tahasildar and order dated 18th November, 2025 passed by Respondent No.3 are hereby quashed and set aside.

12. All contentions of the respective parties on merit are kept open.

**(NITIN B. SURYAWANSHI, J.)**