

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7152 OF 2026

Gulab Ramkishan Deshmukh Since Deceased ..Petitioners
Through Legal Heirs, 1-A Bebitai Gulab
Deshmukh and Ors

Versus

Mangalabai Uttamrao Deshmukh and Ors ...Respondents

Mr. Sanjay P Shinde, for the Petitioners.
Ms. Mamta S Srivastava, for the Respondent Nos. 12, 13 and 14-
State.

CORAM: N. J. JAMADAR, J.

DATE : 9th JUNE 2026

ORDER:

1. This Petition under Article 227 of the Constitution of India calls in question the legality, propriety and correctness of a judgment and order dated 27th January 2026 passed by the learned District Judge, Yeola, whereby an Appeal preferred by the Petitioners-Appellants against an order declining to grant temporary injunction in the suit instituted by the Petitioners, came to be dismissed.

2. Agricultural Land bearing Gat No. 432 situated at Moujde Andarsul, Tal Yeola, Dist Nashik, was jointly held by Vasant Wamanrao Deshmukh and Ramkisan Wamanrao Deshmukh. Defendant Nos. 1 to 10 are the heirs of Vasant. Post partition, the land bearing Gat No. 432

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was sub-divided. Gat Nos. 432/1, 432/5 and 432/6 have been allotted to the share of the Plaintiffs. Defendant Nos. 1 to 8 are the holders of the land bearing Gat No. 432/3. Whereas land bearing No. 432/2 and 432/4 has been allotted to Defendant Nos. 9 to 11.

3. Defendant No.1 instituted a proceeding under Section 143 of the Maharashtra Land Revenue Code, 1966 (“the Code”) for grant of right of way over the boundaries of sub-divided Gat Numbers.

4. By a judgment and order dated 7th May 2012 in Vahivat Case No. 9 of 2010, the Tahsildar allotted six feet wide way over the boundaries of Gat Nos. 432/1, 432/5 and 432/2, to access Gat No. 432/3.

5. The Petitioners-Plaintiffs assailed the said order before the Sub-Divisional Officer in RTS Appeal No. 218 of 2013. By a judgment and order dated 24th September 2014, the said Appeal came to be dismissed. Further Appeals and Revisions were also dismissed by the Authorities under the Code. Thereupon, availing the remedy provided under sub-Section (4) of Section 143, the Petitioners instituted SCS No. 224 of 2017 before the Civil Judge, Niphad, seeking, *inter alia*, a declaration that the decision of the Tahsildar in Vavivat Case No. 9 of 2010 was illegal and void and did not bind the Plaintiffs and for the consequential reliefs of injunction to restrain the Defendants from causing obstruction to the possession of the Plaintiffs over the land bearing Gat Nos. 432/1, 432/5 and 432/6.

6. In the said Suit the Plaintiffs filed an Application for temporary injunction. By an order dated 21st November 2017, the learned Civil Judge declined to grant the interim injunction. Being aggrieved the Petitioners preferred Appeal before the District Court. By the impugned judgment and order, the learned District Judge dismissed the Appeal.

7. Mr. Sanjay P Shinde, the learned Counsel for the Petitioners, submitted the Courts below have lost sight of the fact that there is an alternate way to approach Gat Nos. 432/2 and 432/3 from the northern side of the said land through the land of Defendant Nos. 9 and 10 and Defendant No.11. Secondly, it was urged that the Tahsildar could not have exercised the power to grant the right of way under Section 143 of the Code, since the right of way can be granted only over the boundaries of Survey Numbers, and not the boundaries of the sub-divided Survey Numbers.

8. None of the aforesaid grounds merit consideration. Both the Courts below have recorded *prima facie* findings of facts that the Plaintiffs failed to establish that Defendant Nos. 1 to 8 have the alternate way to access the land bearing Gat No. 432/3. Those *prima facie* findings are required to be appreciated in the light of the fact that upon partition Gat No. 432 came to be sub-divided among the co-sharers and multiple sub-divided Gat Numbers were carved out. The sub-divided Gat No. 432/3 appears to be land-locked. The access to the

said land can *prima facie* be had through the lands which abut Bokate Road. The Plaintiffs are the holders of the other lands, i.e., Gat Nos. Gat Nos. 432/1, 432/5 and 432/6, which abut Bokate Road. Thus, *prima facie*, incontrovertible facts render the exercise of discretion by the trial Court justifiable.

9. It is also imperative to note that, the element of balance of convenience in the face of the *prima facie* finding that there is no other alternate way, tilts firmly in favour of Defendant Nos. 1 to 8. If the injunction is granted, Defendant Nos. 1 to 8 would have no access to reach and cultivate the land bearing Gat No. 432/3. The element of irreparable loss was thus correctly appreciated by the Courts below.

10. The submission on behalf of the Petitioners that the right of way cannot be granted over the boundaries of sub-divided Survey Numbers is not well-founded. In a case of the present nature, where the Gat Number having a large tract of land, is sub-divided into small Gat Numbers with boundaries which separate those Gat Numbers, if the submission on behalf of the Petitioners is acceded to, the Tahsildar would be disabled from exercising the statutory power under Section 143 of the Code to the grave prejudice of the agriculturist who is allotted a land-locked area. If meaning and content are to be given to the power under Section 143 of the Code, in the light of the object the said provision is intended to achieve, the expression “over the

boundaries of the Survey Number” cannot be construed in the restricted fashion suggested by Mr. Shinde.

11. In view of the above, in exercise of the corrective jurisdiction, this Court does not find any legal infirmity in the impugned judgment and order. Therefore, the Petition deserves to be dismissed.

12. The Petition stands dismissed.

[N. J. JAMADAR, J.]