



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.4147/2026

Rajendra Sahasram Patle and others

...Versus...

Munnilal Tekchand Parihar

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. S.G. Karmarkar, Advocate for petitioners
Ms C.D. Lilhare, Advocate for respondent

CORAM : ROHIT W. JOSHI, J.

DATE : 10/06/2026

1. The present petition takes exception to the judgment and order dated 04/05/2026, passed by the learned Principal District Judge, Bhandara in Misc. Civil Appeal No.21/2026. By the said judgment and order, the learned Appellate Court has reversed the order, dated 24/03/2026, passed by the learned Civil Judge, Junior Division, Mohadi on application (Exh.5) in Regular Civil Suit No.4/2026.

2. The petitioners are the original plaintiffs. The petitioners have a rice mill and godown over the land bearing Survey No.35/2 and 35/3. The petitioners are also owners of land bearing Survey No.35/1. The case of the petitioners is that they have constructed a private road passing through land bearing Survey No.35/1 for approaching their rice mill and godown situated in Survey Nos.35/2 and 35/3. The respondent/defendant has purchased land bearing Survey No.36 in the year 2025. The respondent/defendant has placed

a trolley in front of the gate of the godown of the petitioners, which leads to the private road passing through Survey No.35/1. The learned Trial Court has passed an order of temporary injunction in favour of the plaintiffs, placing reliance upon a measurement map of the year 2001, according to which a private road is shown to be passing through land bearing Survey No.35/1. The learned first Appellate Court has reversed the order passed by the learned Trial Court holding that the existence of road through Survey No.35/1 or Survey No.36 cannot be established in the absence of joint measurement of the respective lands.

3. For conclusive adjudication of the boundary dispute, joint measurement may be necessary. However, at the *prima facie* stage, the learned Trial Court passed order directing the defendant to remove the trolley and other material placed in front of the gate installed by the plaintiffs, placing reliance on measurement map, according to which, the road passes through the land bearing Survey No.35/1, which is admittedly owned by the plaintiffs. The learned first Appellate Court ought not to have reversed the judgment passed by the learned Trial Court, which was based upon *prima facie* assessment of documentary evidence on record. It must be stated that existence of gate and private road is not in dispute. The dispute is whether the gate is installed and the private road passes through Survey No.35/1 or Survey No.36. The gate and road are in existence prior to purchase of Survey No.36 by the defendant.

4. In that view of the matter, in the considered opinion of this Court, the learned first Appellate Court ought

not to have interfered with the *prima facie* findings recorded by the learned Trial Court and order of temporary injunction passed by the learned Trial Court, particularly having regard to scope of interference in an appeal preferred under Order XLIII Rule 1 of the Code of Civil Procedure.

5. In that view of the matter, writ petition deserves to be allowed and is allowed accordingly in the following terms :-

(i) Judgment and order dated 04/05/2026, passed by the learned Principal District Judge, Bhandara in Misc. Civil Appeal No.21/2026 is quashed and set aside.

(ii) Order dated 24/03/2026, passed by the learned Civil Judge, Junior Division, Mohadi on application (Exh.5) in Regular Civil Suit No.4/2026 is confirmed. However, having regard to the facts of the case, the defendant will be at liberty to move for vacation of interim order once joint measurement of plot is done.

(iii) No order as to costs.

(ROHIT W. JOSHI, J.)