



REGULAR CIVIL SUIT NO. 122/2026
MHKO11001213-2026
(Mahar Community Co-operative Agriculture Society
vs. Balasaheb Anaso Karadage)

ORDER BELOW EXH.5

This is an application filed by the plaintiff society seeking temporary injunction against defendants as per Order XXXIX, Rules 1 and 2 of the Code of Civil Procedure.

2. It is submission of the plaintiff society that it is owner of suit Gat No.299/A and 299/B situated at village Herle, Tal. Hatkanangale, whereas defendants are owners of Gat No.298. Defendants have filed proceeding before Mamlatdar u/s. 5 wherein they had prayed for road for their commutation in Gat No.298 through Gat No.299/B and as per their prayer by order dated 30.03.2026, Tahsildar Hatkanangale has given road from the boundaries of Gat No.299A and 299/B. It is submitted that, although application was u/s. 5 of Mamlatdar Courts Act, the Tahsildar treated is as application u/s. 143 of Maharashtra Land Revenue Code and directed to give road from the boundary of plaintiff's property. It is submitted that on the basis of said order, defendants have illegally trying to create road through the property of plaintiff thereby causing prejudice to the right of the plaintiff. Plaintiff has therefore filed suit for issuance of injunction against defendants and by way the this application, plaintiff has sought to issue temporary injunction till appearance of defendants.

3. I have gone through submissions. I have also gone through documents filed on record. It appears that prior to application RTS No.9/2025, defendants have filed application before Tahsildar u/s. 143 of the Maharashtra Land Revenue Code bearing RTS No. SR/10/2010. It also appears that defendant No.1 had even filed application u/s. 5(2) of Mamlatdar Courts Act against plaintiff. It reveals that in some applications, defendants have contended obstruction their road whereas in some

applications they have prayed for road. On perusal of recent order of Tahsildar dated 30.03.2026, it appears that as per contention of defendants, there is observation that defendants have no alternate road except through Gat No.299-A, 299-B and 299-C. It is also observed that the said right of way has been obstructed and hence, Tahsildar has directed to retain said right of way through the boundaries of Gat No.299-A and 299-B by removing obstruction.

4. Although, it is contention of learned advocate for plaintiff that Tahsildar has illegally directed to remove encroachment and has given road through the boundaries of plaintiff, said directions appears to be given considering the specific observation that defendants do not have any alternate right of way except through Gat No.299-A and 299-B. It appears that after spot inspection and due verification, the order was passed. It appears that plaintiff has not challenged the said order of Tahsildar before appropriate forum despite of opportunity. Therefore, considering aforesaid facts, for submissions has raised by plaintiff, it would not be appropriate to issue ad-interim injunction against defendants without giving them opportunity of hearing. Hence, issue notice to defendants calling their say has to why injunction shall not be issued against them. Returnable on 02.07.2026.

Date : 17.06.2026
Peth-Vadgaon

(R. K. Deshpande)
I/c. 4th Jt. Civil Judge Junior Division,
Peth-Vadgaon