

**ORDER BELOW EXH.10 IN R. C. S. NO.27/2024**

(Shobha Vs. State and others.)

(Passed on this 26<sup>th</sup> *Day of April 2024*)

CNRNO.MHLA170001322024

The plaintiff has filed this application seeking ad-interim ex-parte injunction restraining defendants from creating any new road through the land ad-measuring 0H 81R situated in Gat No./S.No.196/A till the decision of Exh.5 and the plaintiff has further prayed to restrained defendants from causing any obstruction and interference to the peaceful possession of plaintiff over the said land. The learned counsel for plaintiff argued that, defendant No.3 has applied for removing obstructions from the road situated near the S.No.196/A and 196/B to approach his agricultural land from AUSA-Sarola road. It is contended by him that, the said cart road in existence from long time from his four fathers. The said road is blocked. Therefore, he cannot be approach his agricultural land. On basis of this application of defendant No.1 has passed Judgment and Order for creation of cart road from eastern side of the land of the plaintiff during the rainy season.

2. The defendant No.3 appeared so-moto through Adv. D. P. Ghogre by filing pursis Exh. 14.

3. On going through panchanamas produced on record dated 24.03.2022 and 19.10.22 it reveals that, there is south-north Sarola-Kanheri road, which is rough road. It is 20 feet wide and there is Nalaha situated next to the road. It is 7 to 8 feet deep. There was no road found approaching S.No.196/B near the Nalaha. Thereafter, again panchanama was drawn on 19.10.2022. Its contents are same. However, it is mentioned in it that, there is foot

way to approach the land ad-measuring S.No.196/B and there is water logging in the sugar cane crop situated in S.No.196/B. On going through village map of Sarola and map produced by the plaintiff with the plaint. Considering both the panchanamas it reveals that, there is no such road in existence to approach S.No.196/B. Therefore, there is no question of obstruction to be caused on the said road. The order passed by the defendant No.1 for the use of said road during the rainy season only. However, the Judgment and Order passed by defendant No.1 does not reveal that, on what basis defendant No.1 has considered the existence of road, though there is no such road shown in panchanamas dated 24.03.2022 and 10.10.2022. Therefore, creation of road is likely to cause damage to the land of the plaintiff. Hence, the plaintiff is liable to be get ad-interim ex-parte injunction against defendants No.1, 2, 4 and 5 in his favour. Therefore, I pass following order.

#### ORDER

1. The application is partly allowed.
2. Ad-interim ex-party injunction is granted in favour of plaintiff restraining defendants No. 1, 2, 4 and 5 from creating any new road from land ad-measuring OH 81R land out of land ad-measuring 7H 30R situated in S.No.196/A to approach his agricultural land from Ausa-Sarola road and they are further restrained from obstructing peaceful possession of plaintiff over the said land.
3. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 of the Civil Procedure Code.

4. Issue notice to defendants No.1, 2, 4 and 5. R/on 10.05.2024.
5. E.P and S. B. is allowed if any.

Date:-04.05.2024.

Place:- AUSA.

( P. I. Mokashi )  
Civil Judge, Senior Division.  
AUSA.