

ORDER BELOW EXH.10 IN RCS NO.44/2025
Hamant Madje Vs. Tahsildar and others.

The plaintiff has filed application for grant of ad-interim ex-parte injunction against defendants submitting that, he has filed the suit against defendants for permanent injunction from creating road as per order of defendant No.1. It is contended by plaintiff that, he is the owner and possessor of Gat No.136 admeasuring 4 H 48 R. According to the application filed by defendant Nos. 2 to 4, defendant No. 1 has passed order for removal of obstruction from the road situated on the common bandh in between survey No. 136 and 151 as per provisions under Section 5 of the Mamlatdar Court Act 1906.

2. Defendant Nos. 5 and 6 are in collusion with defendant No. 2 to 4. Land situated in survey No. 136 B is the ancestral land of the plaintiff. Survey No. 151 is situated towards southern side of survey No. 136 B. Already there is road situated towards western side of survey No. 151. The land situated in survey No. 151 is owned and possessed by defendant Nos. 2 to 4 and said land is their ancestral property. Defendant Nos. 2 to 4 are using the road situated in survey No. 151 to approach their agricultural lands. Defendant Nos. 5 and 6 are owners of 1 H 50 R land situated in survey No. 151. They are purchasers of said land. Said portion of the land is purchased by defendant Nos. 5 and 6 out of the ancestral land of defendant Nos. 2 to 4. Defendant Nos. 5 and 6 are having right by usage to use the said road to approach their respective agricultural lands.

3. It is contended by the plaintiff that, the order passed by defendant No. 1 for removal of obstruction from the road passing through the common bandh situated in between survey No. 136 B and survey No. 151. However, there is no such road is in existence. Already there is tin shade of plaintiff situated in survey No. 136 B. The said order is passed by defendant No. 1 without considering the factual position on the spot. The said order is passed in hest. Therefore, the plaintiff is constrained to file the suit and this application. Hence, the plaintiff prayed to allow his application.

4. Heard learned counsel for the plaintiff at length. Perused the documents on record. The letter issued by Circle Officer dated 13/03/2025 shows that, he has suggested for measurement for fixation of boundaries and for creation of road. Panchnama dated 13/03/2025 shows that, there is road from survey No. 151 in existence and it is the opinion of panchas that there was road from common bandh situated in between survey No. 136 B and survey No. 151. Panchnama dated 07/07/2025 shows that, there is tin shed in survey No. 136. It was decided to fix the boundaries by way of measurement. However, the measurement is not done. There is one M.S.C.B. pole according to the panchnama.

5. The roznama produced on record of the proceeding before the defendant No. 1 shows that, the application filed by defendant Nos. 2 to 4 is decided within three dates. The plaintiff is not given opportunity to put up his defence before defendant

No.1. Therefore, according to report of Circle Officer and panchnama produced on record it is *prima-facily* clear that, there is road passing through survey No. 151 since long time and there is no road presently passing through the common bandh situated in between survey No.136 B and survey No.151. If, the application is not allowed it will cause loss to the plaintiff. On the contrary, if the application is allowed no prejudice will be caused to defendant Nos. 2 to 6. Therefore, the application is liable to be allowed. Hence, I pass following order :-

ORDER

1. Ad-interim ex-pare injunction is granted in favour of plaintiff, restraining defendant Nos. 2 to 6 from creating road on common bandh situated in between survey No. 136 B and survey No. 151 at Ausa till further order.
2. The plaintiff to comply provisions of Order XXXIX, Rule 3 of the Code of Civil Procedure.
3. Issue notice to defendants R/o 07/11/2025. EP and SB is allowed, if any.

Date :- 18/10/2025.

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