

IN THE COURT OF DISTRICT JUDGE - 02, PANDHARPUR

**Misc. Civil Appeal No. - 45/2024.
Shamrao Dhavare Vs. Shamrao Kolekar.**

ORDER BELOW EXH. 20

01. This is an application filed by appellants praying that, respondent be directed to maintain status quo in respect of suit property. Respondent has given oral undertaking before the appellate Court during the hearing that, they will maintain status quo in respect of suit property. However on 12.02.2026 the respondent submitted application before Tahsildar for police protection and said application was allowed. On the basis of the order passed by Tahsildar the respondent sought police protection from Supdt. of Police. Accordingly S.P. by issuing letter to P.I. Mangalvedha ordered to give police protection to respondent. The appellant appeared before police station on 27.02.2026 and gave his statement. The respondents by misguiding to Tahsildar got allowed his application for police protection. The respondents on the basis of said order are trying to create new road from the suit property under police protection. If the respondents succeeds in creating road, then the appellant will suffer irreparable loss. Hence, appellants prayed that, respondents be directed to maintain status quo in respect of suit property.

02. The respondent submitted say at Exh. 24 and resisted application on the ground that appellant has suppressed the fact of Regular Civil Suit No. 29/2024 and revision application filed before Dy.S.P. Mangalvedha. On 12.03.2024 the appellant withdrawn his revision application without any condition. The appellant preferred appeal against order passed by the Tahsildar under Sec. 5 of Mamlatdar's Act before Sub Divisional Officer, Mangalvedha. The said appeal is pending before Sub Divisional Officer. The appellant has hidden this fact from Court and obtained said order. There is negligence on the part of appellant for advancing of argument. The appellant has deliberately made delay in arguing matter. On 05.03.2026 in police Bandobast the respondent, circle officer, revenue officer visited suit property. At that time the appellant and female members from the family of appellant obstructed the respondent for taking action about road. The appellant was not come before the Court in clean hand. The place where Tahsildar, Mangalvedha has passed order to open road in the suit property, at said place the road was obstructed. The appellant has causing obstruction to the said road. Lastly respondent prayed for rejection of application.

03. Heard Adv. Shri. Mahesh Kasabe for appellant and Ld. Adv. V. R. Deshmukh for respondents.

04. By this application appellant prayed that respondent be directed to maintain status quo in respect of suit property. At the outset it is to be noted that, in Misc. Civil Appeal the appellant has filed this application for maintaining status quo. The appellant has not filed

application for maintaining status quo before Ld. Trial Court. This appeal has been preferred against impugned order passed below Exh. 5 in RCS No. 29/2024. Therefore, scope of appeal under order 43 R. 1 of CPC is very limited one. In my view, this application itself is not maintainable before appellate Court. Hence, it is liable to be rejected.

05. It is admitted fact that, Tahsildar has passed order in Rasta Case No. 5/SR/37/2022 dt. 20.11.2023. During the spot inspection the Tahsildar, Mangalvedha found the marks of the road. Against said order of Tahsildar the plaintiffs have preferred revision application before SDPO and at the same time the plaintiffs also filed civil suit before Ld. C.J.J.D. Thereafter without any condition appellants withdrawn the said revision application. Accordingly application was disposed of on 18.03.2023. Prima facie the record shows that, the defendants are not having any alternate road to access to their land. It also reveals that, defendants in order to pass and repass their land bearing Gat No. 33A/F/33-E they use northern side and thereafter eastern boundary of Gat No. 33/1/D/3 for going towards Kachrewadi to Sangola road. The plaintiff himself has obstructed the road and he is seeking relief against defendants to maintain status quo. The appellants have not made out prima facie case for passing order of maintaining status quo. If respondents were directed to maintain status quo, then they will suffer irreparable loss and hence appellants are not entitled to seek prayer of maintaining status quo.

06. In present case, Ld. Trial Court passed order on Exh. 5 on 28.06.2024. The appeal is pending from year 2024. The appellants are not ready to advance final argument on the appeal. The Ld. Adv. for respondent fairly submitted before Court that, he is ready to advance his argument on the appeal itself. Instead of arguing matter this application is filed by appellants. Thus, it appears that, the appellant has no urgency in this matter. Therefore, his application is liable to be rejected. Hence, I pass following order.

ORDER

- 1) Application filed by appellants below Exh. 20 is hereby rejected.
- 2) Order accordingly.

Date : 11.03.2026.

(A. S. Salgar)
District Judge-2, Pandharpur

CERTIFICATE

I affirm that, the contents of this PDF file are same word to word as per the original.

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| 01. | Name of the Stenographer | - Santosh Vilas Ghongade. |
| 02. | Name of the Court | - Court of Dist. Judge 02, Pandhapur. |
| 03. | Order/judgment signed by P.O. on | - 17.03.2026. |
| 04. | Order /Judgment uploaded on | - 18.03.2026. |