

MHST010009342026



Received on : 05.05.2026
Registered on : 06.05.2026
Decided on : 30.07.2026
Duration : Y. Ms. Ds.
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IN THE COURT OF DISTRICT JUDGE, SATARA. AT : SATARA
(Presided over by S.R. Tamboli, District Judge-2, Satara)

MISC. CIVIL APPEAL NO.46 OF 2026

Exh.32

Prakash Dattatray Sawant,

Age- 77 yrs. Occupation - Agriculturist,

R/o. Dhangarwadi, Taluka-Satara

District Satara.

...APPELLANT

Versus

1. Mahadev Shankar Ghadage

Age- 66 yrs. Occupation : Agriculturist,

2. Ankush Shankar Ghadage,

Age- 75 yrs. Occupation : Agriculturist,

3. Shekhar Vilas Ghadage,

Age-29 yrs. Occupation : Agriculturist,

4. Aasha Vilas Ghadage,

Age-63 yrs. Occupation : Agriculturist,

5. Vasant Mahadev Bhosale,

Age-67 yrs. Occupation : Agriculturist,

6. Ramchandra Mahadev Bhosale,

Age-68 yrs. Occupation : Agriculturist,

...RESPONDENTS

7. **Hanmant Mahadev Bhosale,**
Age-58 yrs. Occupation : Agriculturist,
 8. **Nandkumar Mahadev Bhosale,**
Age-48 yrs. Occupation : Agriculturist,
 9. **Reshma Sunil Bhosale,**
Age-45 yrs. Occupation : Agriculturist,
 10. **Shweta Sunil Bhosale,**
Age-23 yrs. Occupation : Agriculturist,
 11. **Avisha Sunil Bhosale,**
Age-22 yrs. Occupation : Agriculturist,
Nos.1 to 11 all R/o:-Kodoli,
Taluka and District- Satara.
 12. **Tahsildar, Satara**
Taluka and District- Satara.
 13. **The Collector, Satara**
Taluka and District- Satara.
- }..RESPONDENTS

APPEARANCE :

For Appellant : Mr. S. N. Kenjale, Ld. counsel for appellant

For Respondent No. 1: Mr. G.S.Bhosale, Ld. counsel for respondent

JUDGMENT

(Delivered on 30th July, 2026)

1. This appeal has been filed against the order dated 04/05/2026 passed by the Court of 9th Jt. Civil Judge, Senior Division, Satara in Regular Civil Suit No. 399/2023. Before the learned Civil Court, the appellant is the plaintiff and the respondents are the defendants. For the sake of convenience, they are referred to by their original status.

2. In brief, the plaintiff has contended in application Exhibit 87 that Gat No. 95/4/3, area 44 R, Pot Kharab 11 R, situated at Mouje Dhangarwadi, Kodoli, Taluka and District Satara, is the suit property (hereinafter, this property is referred to as the “suit property”.) To the north of this property is Gat No. 95/4A/5, and to its east is the land out of Gat No. 94 belonging to defendant No. 1. The plaintiff has filed the suit seeking a declaration of ownership over the suit property and also seeking a declaration that the decision given by the Tahsildar on 26/04/2023 in Rasta Case No. 4/2019 is not binding, along with consequential injunction.

3. The plaintiff has further contended that he filed an application at Exhibit 5 seeking an injunction restraining defendant No. 1 and 12 from creating a new road through the suit property. At that time, defendant No. 1 had filed an application at Exhibit 28 against the plaintiff seeking removal of the gate erected on the east-west road situated on the southern side of Gat No. 95/4A/3. By order dated 07/07/2025, the court rejected the applications at Exhibits 5 and 28 and recorded a finding that no vehicular road passes through the suit property. It was further observed that there exists only a footpath at that place. Before recording the said finding, the court had appointed a commissioner and called for a map and report regarding the suit property. Even in that report, it was stated that no vehicular road passes through the suit property. The plaintiff has not denied the

right of way on foot. Defendant No. 1 is a person of aggressive and domineering nature. He, in collusion with defendant No. 12, has started making illegal attempts to create a non-existent vehicular road through the suit property. A notice to that effect was sent to the plaintiff on 17/02/2026. Defendant No. 1 has suppressed the order passed by the trial court. Therefore, the plaintiff has prayed that defendant No. 12 be restrained from taking action in accordance with the notice dated 17/02/2026.

4. Defendant No. 1 filed objections inter alia contending that defendant No. 1 had earlier filed an application against the plaintiff seeking removal of the gate. At that time, Subhash Sawant, Devendra Sawant, and Nishikant Sawant on behalf of the plaintiff, took a defence that the gate on the road had been erected by them and not by the plaintiff. On 03/09/2025, defendant no. 1 filed an application before the Tahsildar seeking removal of the gate erected by them. He impleaded the aforesaid persons as parties in said application. The plaintiff has filed the present application by suppressing this fact. The parties in the proceedings before the Tahsildar and the parties in the present suit are different. Defendant No. 1 has not made any claim against the plaintiff. The plaintiff is not a party to said proceeding. The suit property is not the subject matter of that application. Therefore, the plaintiff has no right to seek relief against defendant No. 12.

5. Defendants Nos. 12 and 13 contended that the

applications at Exhibits 5 and 28 were rejected by the court. The court has recorded a finding that there exists a footpath through the plaintiff's suit property. According to the Government Resolution dated 29/08/2025, the Government of Maharashtra has adopted a policy that proper roads are necessary for farmers in the State to carry out agricultural activities. Accordingly, acting upon the application made by defendant No. 1 on 03/09/2025, action has been initiated to open the said road referred to in the order dated 26/04/2023 passed in the Rasta case. Notices have been issued to the concerned persons in that regard. Therefore, dismissal of the plaintiff's application was prayed for.

6. I have heard the arguments of the learned advocate Shri S. N. Kenjale for the plaintiff and the learned advocate Shri G. S. Bhosale for defendant No. 1. In view of their submissions, I have considered the following points. The points for determination, the findings thereon, and the reasons are as follows:

Sr. No.	POINTS	FINDINGS
1.	Whether the plaintiff has established a prima facie case in his favour?	In the affirmative.
2.	Whether the plaintiff has established that the balance of convenience lies in his favour?	In favour of the plaintiff.
3.	Whether the plaintiff is entitled to the relief of temporary injunction?	In the affirmative.

Sr. No.	POINTS	FINDINGS
4.	Whether interference in the impugned order is necessary in the appellate jurisdiction?	In the affirmative.
5.	What order?	As per the final order.

: REASONS :

Point Nos. 1 to 4:

7. The learned advocate for the plaintiff, Shri S. N. Kenjale, argued that the plaintiff has challenged by way of suit the order of the Tahsildar passed on 26/04/2023 in Rasta Case No. 4/2019. The plaintiff had filed an application at Exhibit 5 seeking an injunction restraining the creation of a new road through the suit property. The court accepted the plaintiff's contention and prima facie observed that no vehicular road passes through the suit property. Despite this, defendant No. 12, by relying upon the order dated 26/04/2023 in Rasta Case No. 4/2019, issued a notice dated 17/02/2026 for opening a vehicular road through the suit property. Therefore, defendant No. 12 has no authority to create a vehicular road through the suit property, and he should be restrained from acting pursuant to the said notice.

8. He further submitted that the learned trial court failed to consider that defendant No. 12 was acting on the basis of the order passed in Rasta Case No. 4/2019 and ignored the findings

recorded in Exhibit 5. Neither party challenged the order passed on Exhibits 5 and 28; hence, the said order has attained finality. Although the learned trial court did not grant an injunction against the defendants under Exhibit 5, it nevertheless recorded a finding that no vehicular road exists through the suit property. Therefore, defendant No. 12 cannot once again create a vehicular road through the suit property. Hence, defendant No. 12 should be restrained from creating a vehicular road through the suit property on the basis of the decision in Rasta Case No. 4/2019.

9. The learned advocate Shri. G.S. Bhosale for defendant No. 1 argued that, in the application at Exhibit 28, defendant No. 1 had contended that the plaintiff had obstructed the road used by defendant No. 1 by erecting a gate. At that time, Nishikant Sawant and Subhash Sawant appeared and contended that they had erected the iron gate. Therefore, on 03/09/2025, defendant No. 1 filed an application before defendant No. 12 seeking removal of the iron gate against Nishikant Sawant and others. The plaintiff is not a party to those proceedings. Pursuant thereto, defendant No. 12 issued a notice dated 17/02/2026. Therefore, the plaintiff has no right to seek an injunction against defendant No. 12.

10. The notice dated 17/02/2026 clearly shows that defendant No. 12 intended to open the vehicular road in accordance with the decision in Rasta Case No. 4/2019. The notice does not show whether defendant No. 12 conducted any

inquiry in relation to the application dated 03/09/2025 submitted by defendant No. 1. Therefore, the apprehension of the plaintiff is justified.

11. While passing the order on Exhibit 5, the learned trial court recorded a finding that no vehicular road existed as contemplated under the order in Rasta Case No. 4/2019. Upon perusal of the order in Rasta Case No. 4/2019, it appears that the said order directed opening of a north-south vehicular road running along the side of the stream adjoining the field. In fact, while deciding Exhibit 5, the learned trial court recorded an observation that no such vehicular road existed.

12. The order of Tahsildar does not contain any reference to an iron gate. The iron gate was not the subject matter of Rasta Case No. 4/2019. In such circumstances, defendant No. 12 could have conducted an inquiry pursuant to the application dated 03/05/2025 submitted by defendant No. 1. However, without conducting such inquiry, defendant No. 12 seeks to create a road through the suit property by acting upon the order in Rasta Case No. 4/2019.

13. The learned trial court failed to appreciate this aspect. The learned trial court proceeded on the assumption that the iron gate was the subject matter of the plaintiff's application (Exh. 87) and the notice issued by defendant No. 12, and observed that

defendant No. 1 had a right to remove the iron gate and use the road. However, neither the notice issued by defendant No. 12 nor the plaintiff's application related to the iron gate. The request made by defendant No. 1 regarding the iron gate had already been rejected by the learned trial court while dismissing application (Exh.28).

14. There is nothing on record to show that any inquiry was conducted by the Tahsildar on the application dated 03/09/2025 submitted by defendant No. 1. Therefore, defendant No. 12 cannot create a road through the suit property merely on the basis of the order in Rasta Case No. 4/2019. Defendant No. 12 is free to inquire, hear and decide the application filed by defendant No. 1 regarding the iron gate. However, on the basis of that application and the earlier order in Rasta Case No. 4/2019, no road can be created through the suit property. Therefore, all observations made by the learned trial court regarding the iron gate were unnecessary. Accordingly, those findings recorded by the learned trial court are set aside.

15. The plaintiff has prima facie established that defendant No. 12 intends to create a road through the suit property on the basis of the order in Rasta Case No. 4/2019. If defendant No. 12 succeeds in doing so, his conduct would be contrary to the findings recorded by the learned trial court while passing the order on Exhibit 5.

16. When the dispute concerning Rasta Case No. 4/2019 is pending before the civil court, defendant No. 12 ought not to have acted upon that order. He ought to have remained away from the dispute. However, ignoring the findings recorded by the learned trial court, defendant No. 12 intends to implement the order in Rasta Case No. 4/2019. This is not legal. Therefore, the balance of convenience lies in favour of the plaintiff.

17. In such circumstances, if defendant No. 12 is not restrained from taking action, a vehicular road will be created through the suit property. The plaintiff will suffer hardship and irreparable loss. Hence, the plaintiff is entitled to a temporary injunction against defendant No. 12. The learned trial court ignored these aspects and arrived at an erroneous conclusion. Therefore, interference with the impugned order in appellate jurisdiction is necessary. Accordingly, I answer Points Nos. 1 to 4 in the affirmative and pass the following order:

ORDER

1. The appeal is allowed.
2. The order dated 04/05/2026 passed by the Court of 9th Jt. Civil Judge, Senior Division, Satara in R.C.S. No. 399/2023 below Exhibit 87 is hereby set aside.
3. The application at Exhibit 87 in Regular Civil Suit No. 399/2023 is allowed in following manner.
 - (i) Defendant No. 12 is hereby restrained from creating any road through the suit property on the basis of the order

passed in Rasta Case No. 4/2019.

(ii) Defendant No. 12 is further restrained from taking any action pursuant to the notice dated 17/02/2026 for creating a road through the suit property.

4. Respondent No. 1 shall bear the costs of this appeal, and shall bear his own costs.
5. Copy of this judgment shall be sent to the learned Trial Court for information and necessary compliance.

Place : Satara

Date : 30.07.2026.

(S.R. Tamboli)

District Judge-2, Satara.