MHST130003372026	RCS 66/2026 **Shubham Salunkhe Vs Dayanand Rakate**

ORDER BELOW EXH. 5

The matter involves a dispute over the implementation of a right of way granted by the Tahasildar, Patan, under Section 143 of the Maharashtra Land Revenue Code, 1966. The Plaintiff has filed this suit seeking a declaration that the order passed by the Tahasildar in Case No. Work/No. 143/SR-21/2022, dated April 23, 2025, is illegal, void, and not binding upon him, alongside a prayer for a permanent injunction to restrain the Defendants from creating a road through his portion of Gat No. 93 at Village Majgaon. The core of the Plaintiff's contention is that he and the Defendants are co-sharers in the same Gat number, each possessing 87 Ares of land. He asserts that the Tahasildar has exceeded his jurisdiction because Section 143 typically pertains to providing access between different survey numbers and does not empower the authority to carve out a road within a single survey number shared by co-owners, especially when no formal partition has occurred. The Plaintiff further alleges that the Defendants used political influence to obtain an ex-parte or procedurally flawed order, claiming he was not given a proper hearing and that the order erroneously assumes a prior partition. He expresses a grave apprehension that if the road is constructed as per the notice issued by the Circle Officer, Chafal, dated April 7, 2026, which scheduled the demarcation for April 15, 2026 (subsequently shifted to April 17, 2026), his standing sugarcane crops will be destroyed and his possession will be permanently interfered with. On the other hand, the record suggests that the Tahasildar’s order was based on a finding that the Defendants’ land is landlocked and that the Defendants are willing to compensate the Plaintiff with land of equal value from their own share.

02. In considering the prayer for an ad-interim injunction, the court must evaluate the triple test of a prima facie case, balance of convenience, and irreparable loss. The Plaintiff has raised a significant legal question regarding the jurisdiction of the Revenue Authority to grant a right of way within a subdivided Gat number under the specific provisions of the Land Revenue Code. Since the Plaintiff is currently in possession of the land and there is an active sugarcane crop standing thereon, the sudden implementation of the Tahasildar’s order to create a 12-foot wide road would result in the immediate destruction of the crop and a physical alteration of the land's status before the legality of the underlying order can be adjudicated. If the injunction is refused, the Plaintiff will suffer an immediate loss of his agricultural produce, whereas the Defendants’ right to access, while important, can be briefly deferred until the court examines the merits of the jurisdictional challenge. The balance of convenience, therefore, tilts in favour of maintaining the status quo regarding the physical condition of the land to prevent the suit from becoming infructuous. To protect the subject matter of the suit and ensure that no irreversible damage is caused to the standing crops before the Defendants are heard, a limited ad-interim protection is warranted.

ORDER

1. Issue Notice to the defendants to show cause as to why the temporary injunction should not be granted, returnable by 20/04/2026.

2. The defendants, their agents, and representatives are hereby restrained from implementing the order of the Tahsildar, Patan, dated April 23, 2025, and are further restrained from creating any road or causing damage to the standing crops in the plaintiff's possession in Gat No. 93, until the next date of hearing.

3. The plaintiff is directed to comply with the provisions of Order 39 Rule 3 of the CPC immediately and file an affidavit of compliance.

4. A copy of this order be sent to the Tahsildar, Patan, and the Circle Officer, Chafal, for information and stay of the execution proceedings scheduled for April 17, 2026.

Digitally signed by LOLGE RAJESH MOTILAL
Date: 2026.04.16 17:53:11 +0530

(Rajesh M. Lolge)
Date:- 16/04/2026 Civil Judge Jr. Division, Patan