

Order Below Exh.18 in R.C.S No.105/2026**CNR No.MHST180002282026**

01. This application is moved by the plaintiffs against the defendants No.1 to 6 for maintaining the status-quo over the suit properties, till the final decision on Exh.5.

02. It is contended by the plaintiffs that they have filed this suit against the defendants for a declaration that the order passed by the Tahsildar, Man in Rasta Case No.19/2025 dated 05.03.2026 is not binding on them being illegal. Defendants No.1 to 6 have appeared in this suit and they have sought adjournment to file their written statement and say. Defendants No.1 to 6 are in attempt to bring on the suit properties, the machinery in order to make such way. Under such circumstances, if any such disputed way is created through the embankment, it will cause irreparable loss to the plaintiffs. The purpose to file this suit will be frustrated. Hence, this application.

03. Defendants No.1 to 4 and 6 have filed their say to this application at Exh.23 and contended that the application is false and liable to be rejected. This Court has no jurisdiction to entertain and try this suit, against the judgment passed by Tahsildar, Man. In fact, they have to file an appeal to Sub-Divisional Officer as per the law. In order to prolong the execution of the order of Tahsildar, this suit is filed. The disputed way was in existence since long, which was obstructed by the plaintiffs. It was being used by the defendants for the purpose of agriculture. Defendants have no other alternate way than the said way. Hence, they will suffer loss, if status-quo is granted. Defendants have constitutional right to property and to way. Hence, they have prayed for rejection of this application.

04. Heard the argument on both the side at length.

05. It is argued on behalf of the defendants that the civil Court has no jurisdiction to entertain and try the suit regarding the right of way claimed under Section 5 of the Mamlatdar Courts Act, in fact, they have to file an appeal before the proper authority. It has to be mentioned here that plaintiffs have filed this suit for declaration that the order passed by Tahsildar, Man in Rasta Case No.19/2025 is illegal and not binding upon them. The civil Court has exclusive jurisdiction to entertain and try the suit regarding the declaration until explicitly barred by any particular statute or law. There is no such express bar to stop the civil Court from deciding the dispute of said nature.

06. Further, from the perusal of judgment of Tahsildar, Man and the panchnama conducted by the Circle Officer dated 03.09.2025, it appears that the decision of Tahsildar, Man is not as per the actual site inspection done by the Circle Officer. On perusal of the panchnama, it appears that no such disputed way was shown to be in existence at the time of panchnama. Under such circumstances, the plaintiffs have triable issue in this suit. Plaintiffs have made out a case for the grant of status-quo. Hence, I pass following order:

ORDER

1. The Application below Exh.18 is allowed as under:
2. Defendants are directed to maintain status-quo over the suit properties, till the further order of this Court.
3. Plaintiffs to comply.

Date :15.04.2026.

Place: Vaduj.

(F. B. Baig)

Jt. Civil Judge Senior Division,
Vaduj.