

MHST200004942025



R.C.S.No.216/2025
Umesh Vs. State

ORDER BELOW EXH. 05

By the present application at Exh.05 plaintiffs have sought temporary injunction restraining the defendants from implementing the order dated 17/04/2025 passed by Mamlatdar / Tahasildar, Wai and from entering upon the suit property or creating any road therein during the pendency of the suit.

02. The case of plaintiffs in short is that they are the owners and cultivators of land bearing Gat No.132 which is specifically mentioned in plaint para no.1 situated at mouje Maparwadi, Tal-Wai Dist-Satara. According to them, no public or private road has ever existed through the suit property and the defendants are attempting to create a new 12 feet wide road by taking undue advantage of order dated 17/04/2025 passed by Tahasildar Wai under the Mamlatdar Courts Act. It is contended that the village Map and revenue records do not reflect any such road and that implementation of the said order would result in destruction of plaintiffs crops and interference with their peaceful possession. The plaintiffs have therefore filed the present suit seeking a declaration that the order dated 17/04/2025 is illegal, void and not binding upon them, alongwith a perpetual injunction restraining the defendants from implementing the said order or creating any road through the suit property. Pending the suit, the plaintiffs have sought temporary injunction on the same grounds.

03. The defendants have opposed the application by filing their written statement and say. The case of these defendants is that the

allegations made in the plaint are false and baseless. According to them, the disputed 12 feet wide road has been in existence since long and has continuously been used by the defendants and other agriculturists for ingress and egress to their agricultural lands. It is their case that, plaintiffs illegally obstructed the existing road by digging trenches and creating obstructions, compelling the defendants to initiate proceeding under section 5 of the Mamlatdar Court Act. It is further contended that after issuing notices, conducting spot inspection and preparing panchnama, the Tahasildar, Wai passed a lawful order dated 17/04/2025 directing removal of obstruction. The said order has subsequently will confirmed by learned Sub-Divisional Officer in revision. According to the defendants, the plaintiffs have no prima facie case, the balance of convenience lies in their favour and grant of temporary injunction would amount to staying the implementation of a valid statutory order. They have therefore, prayed for rejection of application.

04. I have heard learned advocates for both the sides at length. I have carefully gone through the pleading, documents produced on record, and rival submissions upon which following points arise for my determination to which I have recording my findings with reasons.

Sr.No.	<u>Points</u>	<u>Findings</u>
1]	Whether there is prima facie case in favour of plaintiffs ?	...No.
2]	Whether balance of convenience lies in favour of plaintiffs ?	...No.
3]	Whether plaintiffs shall suffer irreparable loss ?	...No.
4]	What order ?	... Application is Rejected.

REASONS

05. The principal contention of the plaintiffs are that no road has ever existed through the suit land and that the defendants are attempting to create an entirely new road by relying upon the order passed by the Tahasildar. In support of their contention, plaintiffs have produced the village Map and 7/12 extracts pertaining to the suit lands. There is no dispute that plaintiffs' names are reflected in revenue records. However, it is well settled that the entries in 7/12 extracts are preliminarily maintained for fiscal purpose and they neither create nor extinguish a right of way. Likewise, the village Map mainly reflects survey boundaries and Gat Numbers. Merely because the disputed road is not specifically shown in the village Map, it cannot be conclusively inferred at this interlocutory stage that no pathway has ever existed through the suit property. Whether such road existed historically or whether the defendants are attempting to carve out a new road is a disputed portion of fact, which can only be decided after recording oral and documentary evidence during trial.

06. On the other hand, defendants have placed on record the proceedings under Mamlatdar Courts Act. It is their specific case that plaintiff had obstructed the existing road and therefore, proceedings were initiated before the Tahasildar under the Mamlatdar Courts Act. The defendants have further produced on record a copy of Revision Application before the learned Sub-Divisional Officer challenging the order dated 17/04/2025. It appears from the said proceedings that the learned Sub-Divisional Officer has dismissed the revision application and confirmed the order passed by Tahasildar. Thus, as on today the order directing removal of obstruction continues to operate and has received affirmation from the competent Revisional Authority.

07. Though the plaintiffs have challenged legality and correctness of the order passed by Tahasildar in the present suit, this court cannot ignore the fact that the competent statutory authority as well as the revisional authority have concurrently upheld the defendants case. Until the said order is set aside in accordance with law, it carries legal force. Granting temporary injunction at this stage would virtually amount to staying the implementation of a statutory order which has already been confirmed by the superior revenue authority. Such relief if granted would substantially amount to granting the principal relief sought in the suit itself.

08. So far as the prima facie case is concerned, the material placed on record does not indicate that the plaintiffs have established a strong prima facie case. The documents relied upon by the plaintiffs do not conclusively establish that no road ever existed. On the contrary, the order passed by the Tahsildar, which has been confirmed by the Sub-Divisional Officer, lends prima facie a support to the defence that the proceedings relating to removal of obstruction from an existing road. Whether the defendants claim ultimately succeeds is a matter to be decided after full-fledge trial. However, at this stage, the plaintiffs have failed to demonstrate a better prima facie case than that of defendants.

09. The balance of convenience also does not lie in favour of plaintiffs. According to the defendants, the disputed road is the only access available to their agricultural land and has been in continuous use for several years. If injunction is granted, the implementation of statutory order would remain stayed and defendants would be deprived of access to their agricultural lands. On the other hand, if ultimately plaintiffs succeeds in proving that the defendants were attempting to create a new road, appropriate relief can also be granted at any time of the final

disposal of the suit. Therefore, greater hardship is likely to be caused to the defendants if the temporary injunction is granted.

10. The plaintiffs have also failed to establish that irreparable injury would be caused to them if the injunction is refused. The alleged damages to the plaintiffs crops and land is depended upon the final adjudication of the dispute regarding the existence of road. On the contrary, refusal to permit implementation of the statutory order may seriously affect defendant agricultural activity. Hence, the element of irreparable loss cannot be said to have been established by plaintiff.

11. Upon overall consideration of the plaintiffs, the documents produced on record and the settled principles governing grant of temporary injunction, this court is of the considered opinion that the plaintiffs have failed to establish a prima facie case. The balance of convenience is also not in their favour and no irreparable loss has been made out. Accordingly I answer all the points in the negative and proceed to pass the following order :-

ORDER

1] Application (Exh.05) is rejected.

2] Costs in cause.

Date : 20.07.2026

(K.S.Suryawanshi)
Civil Judge Senior Division, Wai
Dist-Satara.

CERTIFICATE

I am affirm that the contents of this [PD.F.](#), file Order are same, word to word, as per the original order.

Name of the Stenographer	:- Gauri Mahesh Kulkarni (Steno Grade-II)
Court	:- Civil Judge Senior Division, Wai. Dist. Satara.
Date	:- 20.07.2026
Order signed by the presiding officer on	:- 20.07.2026
Judgment/order uploaded on	:- 20.07.2026