



Received on	20/09/2023
Registered on	26/09/2023
Decided on	12/06/2026
Duration	02 Y. 08 M. 23 D.

IN THE COURT OF PRINCIPAL DISTRICT JUDGE, WASHIM.
[Presided over by Anil Subramaniam]

Misc. Civil Appeal No. 41/2023
CNR No. MHWS010013392023

Exh. No. 26

1)	Dinkar Ratan Bajad, Aged about 58 years, Occu. Cultivator, R/o. Netansa, Tq. Risod, Dit. Washim.	... Appellant.
<u>V E R S U S</u>		
1)	Kisan Raghoji Bajad (Dead) Aged about 65 years, Occu. Cultivator <u>LRs.</u> A) Smt. Shilabai Gajanan Ghayal, Aged about 52 years, Occu. Cultivator, R/o. Hirdav, Tq. Lonar, Dist. Buldhana.	... Respondents.
2)	Vijay Kisan Bajad, Aged about 45 years, Occu. Cultivator, R/o. Netansa, Tq. Risod, Dist. Washim.	

APPEAL UNDER ORDER 43 RULE 1(r) OF CPC.

=====

Appearance:-

Mr. S. K. Undal, Advocate for appellant.
Mr. Y. S. Gotey, Advocate for respondents.

=====

J U D G M E N T
(Dated 12/06/2026)

1. By the present appeal, the appellant is challenging the order passed by
Ld. Civil Judge (Jr. Dn.), Risod in RCS No. 19/2018 dated 21/08/2023
below Exh. 5 rejecting the application of the plaintiff/appellant herein.

2. The plaintiff/appellant herein filed the suit before the Ld. Trial Court contending that the suit property bearing Survey No. 64/2, Gat No. 179 of village Netansa is the suit property. The plaintiff and defendants are closely related. The plaintiff is owner of the suit property. The suit property was in the name of Bhikaji and it was occupied by grandfather of plaintiff namely Raghoji Bajad and from Raghoji, it came to Ratan Bajad. The son of Raghoji i.e. Ratan and Kisan had some disputes and in that there was settlement of 09/12/1999 and 15 R of land was left for both the parties to be used and since then, Ratan is in occupation and after death of Ratan, the plaintiff is in occupation of the suit land. On 12/03/2018, there was obstruction and hence, the present suit to not to obstruct the said road and not to obstruct balance land. In the said suit, an application for interim relief for similar temporary injunction came to be preferred.
3. The said suit came to be resisted by filing reply contending that the facts are purposefully suppressed by the plaintiff and date of death of Ratan and Raghoji is not specifically stated. It is further contented that the plaintiff has no title or interest in the suit property and there is no question of existence of any road therein. The alleged documents of compromise is denied, there was partition in the year 1985 in which properties of late Raghoji came to be divided and the plaintiff has no right in the suit property. Considering this circumstances, the application be rejected.
4. After hearing both the sides, the Ld. Trial Court rejected the application. Hence, the present appeal.
5. Perused the pleadings, appeal memo and considered the submissions advanced. Following points arise for my consideration and I answer the

same as under for the reasons stated hereinafter.

Sr. No.	Points	Findings
1]	Whether the plaintiff has prima facie case ?	... In the negative.
2]	Whether balance of convenience and irreparable loss would be caused to the plaintiff ?	... In the negative.
3]	Whether the plaintiff is entitled for any relief ?	... In the negative.
4]	Whether the impugned order requires any interference ?	... In the negative.
5]	What order ?	... As per final order.

REASONS

As to Point No. 1 :-

6. There is no dispute about the relationship. The document of 09/12/1999 is between Kisan and Ratan. This document is not admitted. There is another compromise placed on record of 1985. This compromise contemplates divisions of certain properties in certain manner. As per said compromise, western side property of Survey No. 64 came to Kisan and eastern side to Daulat. It is for the plaintiff to show what right and share he has in the suit property and how Ratan or he acquired the same or in the alternative it was basic for the plaintiff to establish his existence of property on the western side or other side adjoining property of the defendants to show existence of way.
7. Apparently, in this case, the plaintiff is coming with the case of contractual right of way and in such circumstances, there could be a servient heritage and dominant heritage. Apparently, in this case, there is no dominant heritage established of plaintiff. In such circumstances, claim of right of way does not in any circumstance found to be prima

facie probable. Thus, considering all these circumstances, the aspect of alleged compromise of 1999 would be part of trial. In spite of this, there is lack of prima facie evidence with regard to the existence of the road. Hence, the plaintiff has no prima facie case. Hence, I answer point No. 1 in the negative.

As to Point Nos. 2 and 3 -

8. Apparently right of way is seen to be asked without any dominant heritage. In such circumstances, it is difficult to come to a conclusion that the plaintiff will suffer any loss or damage. As against this, the suit property as described in the plaint which is said to be owned and possessed by the plaintiff shows that there is road on the northern side. In such circumstances, the plaintiff will not suffer any irreparable loss and balance of convenience also does not lie in his favour. Hence, plaintiff is not entitled for any relief. Hence, I answer point Nos. 2 and 3 in the negative.

As to Point No. 4 -

9. The Ld. Trial Court has appreciated all the facts and circumstances in great details and has come to proper decision which does not require any interference. Hence, I answer point No. 4 in the negative and pass the following order -

ORDER

- 1] The appeal is hereby dismissed.
- 2] The order passed by Ld. Civil Judge (Jr. Dn.), Risod in RCS No. 19/2018 dated 21/08/2023 below Exh. 5 is hereby confirmed.
- 3] Inform to Ld. trial Court, accordingly.
- 4] R & P be returned to the trial Court as per rules.
- 5] No order as to costs.

- 6] Misc. Civil Appeal No. 41/2023 stands disposed off.
(Dictated, pronounced and delivered in open Court).

Washim
Date - 12/06/2026

(Anil Subramaniam)
Principal District Judge,
Washim.

CERTIFICATE

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

Name of Stenographer	:	A. W. Ajmire, Steno (Grade II)
Court Name	:	Principal District & Sessions Judge, Washim.
Date of order/Judgment	:	12/06/2026
Judgment Dictated on	:	11/06/2026
Order/Judgment signed by Presiding Officer on	:	12/06/2026
Order/Judgment uploaded on	:	12/06/2026