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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 867 OF 2022

Nanasaheb Manohar Tapkir and Anr. ... Petitioners

VS.

Sampat Keru Tapkir and Ors. ... Respondents

Mr. Dhananjayrao D. Rananaware for Petitioners.

Mr. Hamid Mulla, AGP for State.

CORAM : GAURI GODSE, J.

DATED : 17th DECEMBER 2025

ORDER:

1. Despite service of notice, none appears for respondent no.1. Respondent no.1 is the original plaintiff in whose favour an order of injunction is passed by the trial Court. The First Appellate Court has confirmed the order of injunction.

2. Learned counsel for the petitioners submits that the application filed by respondent no.1 under Section 5 of the Mamlatdar Courts Act is rejected on the ground that the access requested by respondent no.1 from the petitioner's property is not in existence. The learned Tahasildar based on the spot panchnama has held that there was no road or an access in existence as

claimed by respondent no.1. Leaned counsel for the petitioner relied upon the findings recorded by the learned Tahasildar in order dated 14th May 2018. He further submits that the order passed by the learned Tahasildar is revisable under Section 23 of the Mamlatdar Courts Act. However, respondent no.1 has filed a civil suit to challenge the said order. He submits that in view of the nature of the relief claimed by respondent no.1, the Civil Court could not have granted an order of injunction in respect of the suit land against the petitioners, who are the owners of the suit land.

3. I have perused the papers of the petition. There is substance in the arguments raised on behalf of the petitioner. The impugned order would therefore require consideration by this Court.

4. Hence, Rule.

5. Rule on interim relief in terms of prayer cause (c) is returnable on 18th February 2026.

6. Till next date there will be ad-interim relief in terms of prayer clause (c).

7. In addition to court notice, learned advocate for the petitioner shall serve respondent no.1 by private notice.

8. Since the order of injunction is passed only in favour of respondent no.1, who is the original plaintiff, notice to remaining respondents is not necessary.
9. Learned AGP waives notice for respondent nos. 23.

(GAURI GODSE, J.)