

R.M. AMBERKAR
(Private Secretary)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2152 OF 2022**

Shashikala Surendra Ambade & Ors.

.. Petitioners

Versus

The State of Maharashtra & Ors.

.. Respondents

.....

Mr. D.V. Sutar a/w Mr. Nirmal Pagaria for the Petitioners

Ms. S.D. Vyas, 'B' Panel Counsel for the State

Mr. Rahul Rekhawar, Collector, Kolhapur present through VC

Dr. R.N. Patil, D.K.T.E. Ichalkaranji present through VC

Mr. Nikhil Jadhav, Chief Officer, Kurundwad Municipal Council present through VC

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DHURI

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**CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : FEBRUARY 26, 2022

P.C.:

. Heard the learned Advocates appearing for the parties. Also heard the Collector, Kolhapur and the Chief Officer, Kurundwad Municipal Council who appeared before this Court through video conference.

2. The Petitioners have produced before us the following photographs :

PHOTO NO.1



The above photograph (photograph No.1) shows the public road and on its left, the field of the Petitioners on which they have grown the soyabean crop.

PHOTO NOS. 2 & 3



The above two photographs (Photograph Nos.2 & 3) show that the Respondents are with the help of a JCB destroying the soyabean crop in the Petitioners field.

3. The Collector, Kolhapur and the Chief Officer, Kurundwad Municipal Council are present before us through video-conference. They have tried to defend

their action of destroying the soyabean crop on the Petitioners field by saying that in the meeting held, a member of the Petitioners family had consented to the said action of the Respondents which the Petitioners before us have denied. When we asked them to produce the minutes of the said meeting and the signatures obtained of those present at the meeting, we are informed that they do not have such minutes or signatures. They have also submitted that in the 7/12 extract pertaining to the said field it is endorsed that during the Mahashivratri festival, they will take possession of the Petitioners' land for a period of 15 days for the festivities. We do not understand under which provision of law, such an endorsement is made/allowed and how the plot of the Petitioners can be taken away for a period of 15 days especially when the Petitioners are growing soyabean crop on the said field. Even if this practice has been adopted in the past, the same cannot be relied upon as a precedent and the Court is required to stop such practice once it is opposed by the Petitioners. The Collector, Kolhapur has informed the Court that he will ensure that the field of the Petitioners is not used for the Mahashivratri festivities scheduled in the next week and the said festivities will be confined and held only on the public road.

4. In view of the above, we pass the following orders :

(i) The Respondents are hereby restrained by an order of injunction from using any part of the land/field of the Petitioners for the festival of Mahashivratri in the next week.

(ii) The statement made by the Collector, Kolhapur that they will confine the festivities of Mahashivratri in the next week, only to the public road and not use any part of the field/land of the Petitioners, is accepted as an undertaking given to the

Court.

(iii) This order is dictated in the presence of the Respondent No.2 – Collector, Kolhapur and the Chief Officer, Kurundwad Municipal Council.

(iv) Stand over to 10th March, 2022 when the Respondents shall remain present alongwith their respective Affidavits-in-Reply, if any.

[MILIND N. JADHAV, J.]

[S.J. KATHAWALLA, J.]