

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11695 OF 2026

Devram Sitaram Kakde and Ors

..Petitioners

Versus

The State of Maharashtra and Ors

...Respondents

Mr. Vaibhav V Ugle, for the Petitioners.

Ms. Sulbha Chipade, AGP, for Respondent No.1-State.

Mr. Nilesh Wable, for Respondent Nos. 6 to 17.

CORAM: N. J. JAMADAR, J.

DATE : 13th OCTOBER 2026

ORDER:

1. Heard Mr. Vaibhav Ugle, the learned Counsel for the Petitioners, Ms. Sulbha Chipade, the learned AGP, for Respondent No.1-State and Mr. Nilesh Wable, the learned Counsel for Respondent Nos. 6 to 17.

2. The Petitioners-original Opponents have invoked the writ jurisdiction of this Court, being aggrieved by a judgment and order dated 20th May 2026, passed by the Sub-Divisional Officer (SDO), Haveli, Pune in RTS Appeal No. 172 of 2026, preferred by the Respondents-original Applicants, against an order dated 30th January

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2026 passed by the Tahshildar under Section 5 of the Mamlatdars' Courts Act, 1906 ("the Act, 1906"),

3. The Respondents had preferred an Application No. RASTA/MCA/5(2)/SR/11/2025 before the Tahshildar seeking directions to the Respondents to remove the impediment over the road leading to Zilla Parishad Road. The Tahshildar caused a spot inspection to be conducted. Eventually, by an order dated 30th January 2026, the Tahshildar was persuaded to direct the Petitioners-Respondents therein to remove the impediment in the access to the road as appeared in the Google map, i.e., Vadgaon Shinde to Nirgudi Shiv Nirgudi road so as to allow the access which was obstructed in Gat Nos. 443, 447 and 446.

4. Being aggrieved, the Respondents preferred a Revision before the SDO, Haveli. By the impugned order, the SDO was persuaded to allow the Revision and direct the Respondents to remove the impediments caused at Survey Nos. 446, 447 and 449 on the road shown in the Vadgaon Shinde village map.

5. Mr. Ugle, the learned Counsel for the Petitioners, submitted that the Petitioners have no objection if the impediment over the road, as appears in the Google map, is removed. The SDO has completely misconstrued the case of the Respondents and the material on record and unjustifiably interfered with the order passed by the Tahshildar as the road as shown in the village map does not exist.

6. As a second limb of his submission, Mr. Ugle submitted that, the SDO has passed the impugned order without jurisdiction. The SDO is not empowered to hear the revision against an order passed by the Tahshildar, under Section 23 of the Act, 1906. To this end, Mr. Ugle placed reliance on the decision in the case of **Ramesh Damu Patil Vs Purushottam Umrao Chavan and Ors.**¹

7. Mr. Ugle further submitted that, even otherwise, the Tahshildar had not followed the prescribed procedure for conducting enquiry under the Act, 1906. The Tahshildar did not provide an opportunity to cross-examine the witnesses. The proceedings under Section 5 of the Act, 1906 were required to be conducted as if the said Application was a suit. To buttress this submission, Mr. Ugle placed reliance on a decision in the case of **Sudam S/o Namdeo Madke Vs The State of Maharashtra and Ors**² and another decision of a learned single judge of this Court in the case of **Sudhir Yashwant Dhangude Vs Ankush Kashiram Bole and Ors.**³

8. Mr. Nilesh Wable, the learned Counsel for Respondent Nos. 6 to 17 stoutly opposed the submissions on behalf of the Petitioners. It was urged that, none of the aforesaid grounds warrants interference in the impugned order.

¹ Aurangabad Bench Writ Petition No. 4639 of 2013, decided on 23rd September 2016.

² 2022 (2) All MR 136.

³ 2019 (1) All MR 825.

9. Mr. Wable laid emphasis on the fact that, in the successive spot inspection reports, the existence of road has been categorically shown. Likewise, there was material to show that the Petitioners had attempted to erase the signs of the existence of the road by bringing the area underneath the road under cultivation. As the road exists before and ahead of the points at which the Petitioners have caused obstruction and brought the road under cultivation, the SDO was fully justified in directing the Petitioners to remove the impediment.

10. Mr. Wable further submitted that, having not assailed the first order passed by the Tahshildar, it is now not open for the Petitioners to assail the legality and propriety of the proceedings before the Tahshildar. Mr. Wable further submitted that, the decision in the case of **Ramesh Damu Patil (Supra)** does not assist the Petitioners as the position in regard to the competence of the SDO to hear Revisions against an order passed by the Tahshildar, under Section 23(2) of the Act, 1906, has subsequently been clarified.

11. To begin with, on facts, the spot inspection report dated 11th June 2025, clearly records the existence of the road to access Gat Nos. 440, 441, 442, 443 and 439 upto the land bearing Gat Nos. 446 and 447. It further records that there is a cement concrete road upto Gat No. 449. However, the said road was not visible in the lands bearing Gat Nos. 446 and 447. It was closed. Even in the panchanama dated 28th October

2025 the existence of the road was noted. In the panchnama drawn on 8th January 2026, it was again noted that Nirgudi Vadgaon Shinde road shown in the village map was visible in Gat No. 440, 441 and 443 and was closed in Gat No. 446 and beyond.

12. On the strength of the aforesaid spot inspection reports, the Authorities below have come to the conclusion that, both the existence of road and the impediment caused therein have been established. The learned Tahshildar/ALT, however, directed that the road, that is available as per Google map, be made open. The SDO interfered with the said order as the existence of the road as shown in the village map was *prima faice* established.

13. Once the existence of the road is shown in the village map, and it was demonstrated that impediment was caused in the access through the said road, the Tahshildar could not have passed an order to open the road as appeared in the Google map. The SDO was, therefore, fully justified in directing the removal of the impediment and in providing the access through the road which appears in the village map. This finding of fact, based on objective material, is not open for interference in exercise of limited supervisory jurisdiction.

14. Reliance placed by Mr. Ugle on the judgment in the case of **Ramesh Damu Patil (Supra)** does not advance the cause of the Petitioners as in the case of **Prashant Prabhakar Rao Mukkarwar Vs The**

Sub-Divisional Officer and Ors,⁴ a Division Bench of this Court on a reference has held that the delegation of power by the Collector under Sub-Section (2A) of Section 23 of the Act, 1906, to the Deputy Collector or Assistant Collector, would empower the SDO to decide the revision preferred under Section 23 of the Act, 1906. Thus an abstract proposition of law that, the SDO is not empowered to decide revisions cannot be acceded to.

15. The submission that the Tahshildar had not followed the procedure as ordained for a suit while conducting the enquiry under the Act, 1906, does not merit consideration at this stage as the Petitioners had not assailed the order passed by the Tahshildar. In any event, having regard to the material on record, which clearly establishes the factum of existence of a village road and impediment thereto, the aforesaid challenge pales in significance.

16. The Petition, therefore, deserves to be dismissed.

17. Hence, the following order:

: O R D E R :

Petition stands dismissed.

No costs.

[N. J. JAMADAR, J.]

⁴ 2019 Supreme(Bom) 1161.