

Ramhari Birappa Gawade
and Others ...Petitioners
versus
Lingappa Dareppa Bandgar
and Others ...Respondents

DATE : 20TH FEBRUARY 2015

. This petition is directed against the following orders :-

- a) Order dated 11th December, 2012 made by the
Tahsildar;
- b) Order dated 2nd December, 2014 made by the
Sub Divisional Officer.

2. Both the aforesaid orders have been made under the Mamlatdar Courts Act, 1906 ("said Act"). The order of the Tahsildar dated 11th December,

2012 came to be confirmed by the Sub Divisional Officer vide order dated 2nd December, 2014 in the exercise of revisional jurisdiction conferred upon the Sub Divisional Officer under Section 23 of the said Act.

3. By the impugned orders, the authorities have restored in favour of the respondents a road sufficient for user by Bullock-cart, by directing the removal of impediments thereon.

4. Mr. Kumbhakoni, the learned counsel for the petitioners submitted that the complaint in the present case was vague and most importantly, was not a plaint as required by Section 7 of the said Act. The learned counsel further pointed out that there was no compliance with provisions of Sections 9 and 10 of the said Act, which required examination of plaintiff on oath as well as subscription and verification of the plaint. The learned counsel, relying upon the provisions contained in Section 12 of the said Act submitted

that where there was no compliance with the provisions contained in Section 7, 9 and 10 of the said Act, it was the mandate of law that such plaint shall be rejected. The learned counsel further pointed out that in the present case, the authorities under the said Act have virtually provided for a new road, when earlier there existed no such road at the site. For all these reasons, the learned counsel submitted that both impugned orders deserve to be set aside.

5. Having heard the learned counsel for the petitioners and perused the record, in my judgment, no case is made out for interference with the impugned orders.

6. Section 7 of the said Act, no doubt provides that suit under the said Act shall be commenced by a plaint. The contents of plaint have also been specified. However, Section 8 of the said Act permits informal petition to be treated as plaint. If the complaint in the present case is

perused, then it is clear that most of the ingredients specified under Section 7 of the said Act were substantially fulfilled. The provisions of Section 9 of the said Act are attracted where the plaint does not contain the particulars specified in Section 7 or is unnecessarily prolix.

7. In the circumstances, there is no substance in the contentions of the learned counsel that the complaint in the present case had to be summarily rejected.

8. Apart from the aforesaid, if the revision petition instituted by the petitioners is perused, then it will be seen that there is no categorical ground in the context of non compliance with the provisions of Sections 7, 9, 10 and 12 of the said Act. In ground No. 8 of the revision petition, the petitioners have stated that Tahsildar has not considered that no respondents have filed application under Section 7 of the said Act but that they were claiming new road in the

agricultural land of the applicant No. 1. Such ground, apart from being vague is not at all a ground now urged by the learned counsel for the petitioners in the present petition. Since, the provisions of the said Act itself permit informal petition to be treated as a complaint, it was for the petitioners to make grievance at the earliest instance with regard to any alleged non compliance with procedural requirement. Further it was for the petitioners to make out a case that the some prejudice has occasioned the petitioners on account of any alleged non compliance with procedural requirement. No such case appears to have been made out by the petitioners either before the Tahsildar or the revisional authority.

9. On the aspect of the new road, there is no material on record to sustain such contention. In any case two authorities have concurrently returned findings of fact. It has not been demonstrated that such findings are perverse, or vitiated by any non application of mind. It is accordingly not possible

for this Court in exercise of its extraordinary jurisdiction to review such finding of fact.

10. For the aforesaid reasons, there is no case made out to interfere with the impugned orders.

11. Petition is therefore dismissed. There shall be no order as to costs.

12. Notwithstanding with the dismissal of the petition, it is clarified that the proceeding under the Mamlatdar Courts Act, 1906 are summary in nature and the same shall not preclude the parties from resort to regular civil proceedings before the civil Court. In case, such proceedings are instituted, then the same shall be considered by the Civil Court in accordance with law and on their own merits.

(M. S. SONAK, J.)