

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(Civil Appellate Jurisdiction)

SECOND APPEAL NO. 729 of 2011

(Keshav J. Maske

Appellant

Versus

Shamrao Bira Bhanuuse & ors

Respondents)

Mr.Umesh R.Mankapure, Advocate for appellant

Mr. Pratap Patil, Advocate, for Respondents 1 to 5

CORAM : R.K.Deshpande, J.
DATED : 29th JUNE, 2015.

P.C.

The Tahsildar passed an order under Section 143 of the Maharashtra Land Revenue Code for removal of obstruction created on the boundaries of two survey numbers. This order of Tahsildar was the subject matter of challenge in Regular Civil Suit by the appellant, who is the original plaintiff. Both the Courts below are against the appellant in holding that there exists a way on the boundary and hence direction to remove obstruction by Tahsildar cannot be held to be illegal.

The contention of the learned counsel for the appellant/plaintiff is that under Section 143 of the Maharashtra Land Revenue Code, the Tahsilar has no jurisdiction to direct removal of obstruction

on the road which existed on the boundary. According to him, such jurisdiction is conferred on the Mamlatdar Court under Section 5 of the Mamlatdar Court's Act. He further submits that Tahsildar has committed an error in relying upon the Panchnama.

The contentions raised lose their significance in view of the finding of facts recorded by both the courts below that there exists the road on the boundary of two survey numbers and hence the obstruction created by the appellant/plaintiff is required to be removed. Such finding is recorded in the suit filed by the appellant himself and the same are not under challenge. In view of this, no substantial question of law arises. The second appeal is dismissed.

(R.K.DESHPANDE, J.)