

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8641 OF 2015

Shri Dadasaheb Gunda Khot.] ... Petitioner

Versus

Shri Ananda Natha Kalel and Ors.] ... Respondents

Mrs. A. R. S. Baxi for Petitioner.

Mr. Shivaji Natha Kalel, Respondent No.2, present in person.

CORAM :- M. S. SONAK, J.

DATE :- DECEMBER 05, 2015

P. C. :-

1. The learned Counsel for petitioner seeks leave to delete respondent no.4 from the array of respondents. Leave granted. Necessary amendment to be carried out forthwith. This deletion is subject to the risk and consequences of the petitioner.

2. The challenge in this petition is to the orders made by the Tahsildar and the SDO in proceedings under the Mamlatdar Courts Act, 1906 ('said Act') by which the two authorities have not accepted the petitioner's case as to the existence of a public road through property of the respondents.

3. The learned Counsel for petitioner submitted that there is an admission in the reply filed by the respondents that such road exists. Upon perusal of the reply, no such admission is discernible. All that the respondents have stated is that they are willing to offer a road/access, provided half of the same is from their property and the remaining half from the neighbouring property. This can hardly be referred to as some sort of admission. The concurrent findings of fact are against the petitioner. There is no perversity demonstrated. Accordingly, there is no reason to entertain the present petition.

4. However, it is clarified that the proceedings under the said Act are summary in nature. The purpose of such proceedings is not to decide the civil rights, if any, of the party. Therefore, should the petitioner initiate proceedings in the Civil Court, the Civil Court to decide the same in accordance with law and on their own merits, without in any manner being influenced either by the orders impugned in the present petition or for that matter, the circumstance that this petition is not being entertained by this Court.

5. Subject to the aforesaid, this petition is dismissed. There shall be no order as to costs.

6. All concerned to act on basis of authenticated copy of this order.

(M. S. SONAK, J.)