IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11348 OF 2013

Shri. Dhanaji Maruti Jagadale and another .. Petitioners

Versus

Shri. Shivaji Keru Jagadale and others .. Respondents

Mr. P. J. Shinde, for the Petitioners.
Mr. P. S. Gole, for the Respondent No.1.
Ms. Aparna D. Vhatkar, AGP for the Respondent Nos.2 to 4.

CORAM : R.M. SAVANT, J.
DATE : 2nd MAY 2016

P.C.

1. The order dated 29.07.2013 passed by the Sub Divisional Officer, Sub Division, Satara, dismissing the Revision Application filed by the Petitioners herein and thereby confirming the order dated 11.07.2012 passed by the Tahsildar Koregaon is taken exception to by way of the above Petition.

2. The application as originally filed by the Respondent No.1 herein was one under Section 143 of the Maharashtra Land Revenue Code and Section 5 of the Mamlatdar's Court Act for carving out a road for removal of obstruction. However, by an order dated 31.03.2011 the

Tahsildar recorded the statement made on behalf of the Respondent No.1 that the said application be considered as one under Section 5 of the Mamlatdar's Court Act. The said application was therefore restricted to the application under Section 5 of the Mamlatdar's Court Act. The said application came to be allowed by the Tahsildar Koregaon by the order dated 11.07.2012. However, whilst adjudicating upon the said application, the Tahsildar has approached the application from the standpoint of granting a new road to the Respondent No.1 to access his property being Gat No.427 and 426.

3. The order dated 11.07.2012 passed by the Tahsildar, Koregaon was taken exception to by way of a Revision by the Petitioners herein before the Sub Divisional Officer, Satara. The Sub Divisional Officer, Satara compounded the matters by treating the Revision to be a Revision against an order passed under Section 143 of the Maharashtra Land Revenue Code and he also applied the consideration as would be applicable to an application under Section 143 of the Maharashtra Land Revenue Code. The problem has been compounded in view of the fact that the lands of the Petitioners have been geographically intervened by the lands of the Respondent No.1. In as much as the lands of the Petitioners are Gat No.428 and Gat No.425 whereas the lands of the Respondent No.1 are Gat No.427 and 426 which are between the said two land of the

Petitioners. The Learned Counsel appearing on behalf of the parties i.e. Mr. P. J. Shinde for the Petitioners and Mr. P. S. Gole for the Respondent No.1 are agreeable to both the orders i.e. order passed by the Sub Divisional Officer as also the order passed by the Tahsildar being set aside as they intend to approach the authorities under the Consolidation Act for addressing the problem which has arisen on account of the intervention of the lands of the Respondent No.1. Hence, the order passed by the Sub Divisional Officer dated 29.07.2013 as also the order passed by the Tahsildar dated 11.07.2012 are quashed and set aside. The parties would be at liberty to apply to the authorities exercising power under the Consolidation Act for consequential correction of the scheme so that parties have contiguous land on either side. If any such application is filed by the parties within six weeks from date the concerned authorities under the Consolidation Act would consider them appropriately so that the acrimony between the parties comes to an end. With the aforesaid directions, the Writ Petition is disposed of.

[R.M. SAVANT, J]