

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3026 OF 2016**

**Shri Dyandeo Ganpat Jadhav
Vs.
State of Maharashtra & Ors.**

**..Petitioner
..Respondents**

**Mr. Rupesh Zade for the Petitioner
Mrs S. S. Bhende AGP for the Respondent Nos.1 to 3**

**CORAM : R. M. SAVANT, J.
DATE : 9th MARCH, 2016**

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 11-5-2015 passed by the Sub Divisional Officer, (SDO) Baramati, Sub Division, Baramat, by which order the Revision filed by the Petitioner came to be dismissed and resultantly the order dated 30-9-2013 passed by the Tahsildar Indapur came to be confirmed.

2 The Respondent No.4 herein had filed an application under Section 5 of the Mamletdars' Courts Act for removal of the obstruction on the road passing through Gat No.423/3 and leading to the Bavada Village which is a public road. In so far as the said application is concerned, in terms of the procedure that is prescribed the Circle Officer made a report and in the said report observed the existence of the road passing through Gat No.423/3. Having regard to the said report dated 21-5-2013 as also the statement dated 25-4-2013 recorded of the Respondents wherein they have stated that they

have damaged the said road, the Tahsildar came to a conclusion that there was a road in existence which has been damaged by the Respondents to the said application amongst whom is the Petitioner herein and accordingly allowed the said application which was numbered as 28 of 2013. It seems that contemporaneously the Respondent No.4 herein had also filed an application under Section 143 of Maharashtra Land Revenue Code for creation of the road. However, the said application has not been dealt with and the application filed invoking Section 5 of the Mamletdars' Court Act was taken up for consideration and the order passed by the Tahsildar Indapur dated 30-9-2013.

3 It seems that one Machindra H Mali who is a co-owner along with Hanmant Jadhav, who was the opponent in the Application No.28 of 2013 filed before the Tahsildar, filed Regular Civil Suit No.49 of 2014 for declaration and injunction. The said Suit was filed questioning the order passed by the Tahsildar dated 30-9-2013. In the said Suit the Plaintiff i.e. Machindra Mali filed an application for temporary injunction Exhibit 5 which was rejected by the Trial Court i.e. the Learned Civil Judge Junior Division Indapur against the rejection of the application for injunction. The Plaintiff therein had filed an Appeal before the District Court. It seems that the said Appeal also came to be dismissed and hence in so far as the order passed by the Tahsildar dated 30-9-2013 is concerned, no reliefs were granted in respect of the same by the Civil Court.

4 The Petitioner filed a Revision Application against the said order dated 30-9-2013 passed by the Tahsildar – Indapur. The Revisionary Authority i.e. the SDO Baramati adverted to the material which was on record before the Tahsildar - Indapur and also took into consideration the fact that the Civil Court had rejected the application for temporary injunction filed by the co-owner of Gat No.423/2 which is the adjoining land and accordingly dismissed the Revision filed by the Petitioner. The Revisionary Authority held that in view of the order passed by the Civil Court the said order would be binding on the parties and therefore no relief could be granted to the Petitioner in the Revision and has accordingly dismissed the Revision.

5 In my view, having regard to the conspectus of facts as above, no fault can be found with the orders passed by the authorities below. The reliance placed by the Learned Counsel appearing for the Petitioner on the judgment of a Learned Single Judge in the matter of **Vishwanath s/o Rambhaji Bhalerao Vs. Usha w/o Pralhad Kasbe**¹, has no application in the facts of the case as in the instant case there is no issue of the bar of jurisdiction . The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]

1 2011(1) Mh.L.J. 603