

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1502 OF 2015

Sunita Shankar Reelkar .. Petitioner.
Vs.
Subhash Parangrao Shinde .. Respondent.

Mr. Saurabh Butala with Mr. Harshad Ashok Sathe for the Petitioner.
Mr. Sachin S. Punde for the Respondent Nos. 1 to 4 and 6.
Mr. Manish Pabale AGP for the Respondent No. 7.

CORAM : A.S. OKA & A.K. MENON, JJ.

DATED : 28TH APRIL, 2017

P.C.

1. Prayer clause (b) is the only substantive prayer. Learned counsel appearing for the petitioner is seeking a Writ of Mandamus against the Tahsildar to implement the order dated 18th May, 2011 passed in exercise of powers under Section 5 of the Mamlatdars' Courts Act (for short "the said Act"). His submission is that under Section 21 of the said Act, it for the Tahsildar to execute and implement the order.

2. The grievance made in this petition under Article 226 of the Constitution of India is that the Tahsildar has not executed the order properly. Before seeking a Writ of Mandamus from this Court, the petitioner has not approached the Tahsildar by making a representation by pointing out in what manner the order ought to have been executed.

3. As the petitioner has filed this petition seeking a Writ of Mandamus without approaching the Tahsildar, in view of the law laid down by the Apex Court in *Saraswati Industrial Syndicate Ltd. vs. Union of India*¹, we decline to entertain this petition under Article 226 of the Constitution of India. However, it will be open for the petitioner to make an appropriate application to the Tahsildar seeking execution in accordance with Section 21 of the said Act. If such an application is made, the Tahsildar shall decide the application in accordance with law. Subject to what is observed above, the petition is disposed of.

(A.K. MENON, J.)

(A.S. OKA, J.)

¹ [1974] 2 SCC 630