

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

WRIT PETITION NO.957 OF 2017

Smt. Sushila Maruti Khot and others

..Petitioners

Versus

Vasant Vithoba Khandekar and another

..Respondents

Ms. Anusha P. Amin for the Petitioners.

CORAM : R. M. SAVANT, J.

DATE : 14th FEBRUARY, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 30.03.2016 passed by the Sub Divisional Officer, Miraj Division, Miraj, by which order, the Revision Application filed by the Petitioners came to be dismissed and resultantly, the order dated 17.07.2015 passed by the Tahsildar, Kavathe Mahankal came to be confirmed.

2 The Respondent Nos.1 and 2 herein are the proponents of the application filed under Section 5 of the Mamlatdar's Courts Act, 1906 against the Petitioners seeking an injunction that the Petitioners should not obstruct their road for approaching their lands being Gat No.68 and Gat No.63. It was the case of the Respondent Nos.1 and 2 that Petitioners have obstructed the road on the West of Gat Nos.66, 67 and 68 and to the

East of Gat No.65 which goes to the land of the Respondent Nos.1 and 2 being Gat No.68. It was also the case of the Respondent Nos.1 and 2 that the road in Gat No.16 belonging to the Petitioners which the Respondents use for approaching their Gat No.63 was also obstructed by the Petitioners. The Respondent Nos.1 and 2 had therefore sought a direction that the Petitioners be directed to remove the obstruction.

3 In terms of the procedure adopted for adjudication of the application under Section 5, a site inspection was carried out as also a report was submitted by the Tahsildar, Kavathe Mahankal. On the basis of the said site inspection and the report submitted by the Tahsildar, Kavathe Mahankar, the Tahsildar reached a conclusion that the Petitioners had obstructed the roads which have been mentioned in the earlier part of the order leading to the lands of the Respondent Nos.1 and 2 being Gat No.68 and Gat No.63. The Tahsildar accordingly directed the Petitioners to remove the obstruction by order dated 17.07.2015.

4 The Petitioners aggrieved by the said order dated 17.07.2015 carried the matter by way of a Revision to the Sub Divisional Officer. The Sub Divisional Officer by the impugned order dated 30.03.2016 has dismissed the Revision by holding that the Tahsildar had passed the order dated 17.07.2015 by following the proper procedure and taking into

consideration the material which has come on record. Both the authorities i.e. Tahsildar as well as the Sub Divisional Officer have therefore recorded concurrent finding of fact in respect of the existence of the road which has been mentioned in the earlier part of this order and therefore injuncted the Petitioners.

5 It seems that the Petitioners have also filed a suit seeking an injunction against the Respondent Nos.1 and 2 for restraining them from cutting the trees which according to them are on their part of land. The application for injunction filed in the said suit has been rejected as fairly conceded by the Learned Counsel for the Petitioners. Having regard to the facts as aforestated, no case for interference with the concurrent orders passed by the Tahsildar and the Sub Divisional Officer, Miraj has been made out. The Writ Petition is accordingly dismissed.

[R.M.SAVANT, J]