

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

WRIT PETITION STAMP NO.22195 OF 2016

Shri. Dilip Keshav Patil and another	..Petitioners
Versus	
Shri. Vilas Rangrao Patil and others	..Respondents

Mr. T. L. Pimple for the Petitioners.
Mr. T. S. Ingale for the Respondent No.1.
Mr. U. R. Mankapure for the Respondent No.3.

CORAM : R. M. SAVANT, J.
DATE : 1st MARCH, 2017

PC.

1 The writ jurisdiction of this Court is invoked against the order dated 10.05.2016 passed by the Sub Divisional Officer, Walwa Division, Islampur, by which order, the Revision Application filed by the Petitioners came to be disposed of in terms of the compromise between the parties which took place on 28.04.2016. As a consequence of the impugned order, the order dated 11.01.2016 passed by the Tahsildar allowing the application filed by the Respondent Nos.1 and 3 under Section 5 of the Mamlatdar's Court Act came to be set aside.

2 The impugned order dated 10.05.2016 is challenged on the ground that though the original Applicants who were proponents of the application filed under Section 5 of the said Act did not sign the

compromise pursis, the Sub Divisional Officer notwithstanding the same has accepted the said compromise as having been entered into between the parties and has accordingly set aside the order passed by the Tahsildar dated 11.01.2016 and directed that the road for access to the Respondent Nos.1 and 3 would be in terms of the compromise entered into between the parties.

3 This Court with the assistance of the Learned Counsel for the parties has perused the compromise pursis. The said compromise pursis ex-facie discloses that the same has not been signed by the Applicants i.e. Respondent Nos.1 and 3 herein. If that be so, the compromise cannot be said to be compromise between the parties, on account of the fact that one party has not deemed it appropriate to sign the same. Since the impugned order proceeds that it is a compromise between the parties and thereby sets aside the order dated 11.01.2016 passed by the Tahsildar allowing the application filed by the Respondent Nos.1 and 3, the impugned order is required to be set aside and is accordingly quashed and set aside and the matter is relegated back to the Sub Divisional Officer for a de-novo consideration of the Revision Application filed by the Petitioners.

4 During the course of the hearing of the above Petition, the

Learned Counsel appearing for the Respondent No.1 sought to propound a way through the 'Sarbandh' of the lands of the Petitioners as well as the Respondent Nos.1 and 3, to facilitate the Respondent Nos.1 and 3 to access their land bearing Gat No.112. It would not be possible for this Court to consider the practicability of accepting the road now suggested by the Learned Counsel appearing for the Petitioners. Since the matter is remanded back to the Sub Divisional Officer, it would be for the Petitioners to propound their proposal before the Sub Divisional Officer when the matter is taken up on remand. The parties to appear before the Sub Divisional Officer on 15.03.2017. The Sub Divisional Officer may consider the Revision Application on its own merits and in accordance with law uninfluenced by the impugned order. Since there is an order of status-quo operating in the above Petition by virtue of the order dated 15.10.2016, the same would continue till the disposal of the Revision Application by the Sub Divisional Officer. The Sub Divisional Officer is directed to hear and decide the Revision Application latest by 30.04.2017. With the aforesaid directions, the Writ Petition is disposed of.

[R.M.SAVANT, J]