

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 264 OF 2017

NAVNATH RAMBHAU BANGAR AND OTHERS  
VERSUS  
NAMDEO BHIVA KHEDKAR AND OTHERS

Advocate for Petitioners : Mr. N.B. Narwade.  
Advocate for Respondent Nos. 1, 2, 4 to 7 : Mr. A.A. Nimbalkar.  
AGP for Respondent Nos. 6 to 10 : Mr. S.R. Yadav.

CORAM : RAVINDRA V.GHUGE, J.  
DATED : 01<sup>st</sup> August, 2018.

PER COURT :

1. By this petition, the petitioners seek to challenge the order of the learned Tahsildar, dated 05/11/2015, in Rasta Case No. 24/2015 and the order dated 10/06/2016, passed by the Sub Divisional Officer in R.T.S. Revision Application No. 170/2015.

2. I have considered the submissions of the learned advocates for the respective sides and the learned AGP on behalf of respondent Nos. 8 to 10.

3. Respondent Nos. 1 to 7 had moved the Tahsildar under Section 5 (2) of the Mamlatdars' Courts Act, 1906 ("the said Act"), praying for removal of obstruction that was said to have been created on the road, at the behest of the owners of land Gut No. 308 and 309. After carrying out a spot inspection, on preparing the panchnama and the

map and after hearing all the sides, the order dated 05/11/2015, was passed by the Tahsildar concluding that the road adjoining Gut Nos. 308 and 309 from the East to West side has been blocked and the said blockages have to be removed, so as to enable the owners of land Gut Nos. 307, 308/1 and 311 to have an access to their land, by using the said road. These petitioners preferred a Revision under Section 23 (2) of the said Act before the revisional authority who is commonly known as the Sub-Divisional Officer. By order dated 10/06/2016, the Revision Application filed by these petitioners was rejected.

4. The contention of the petitioners is that the complainants raised a dispute before the Tahsildar, as purchasers of the land Gut Nos. 307, 308/1 and 311. Only because they want an easy access to their land, that they raised a dispute in the year 2015, before the concerned authority, alleging that these petitioners have created blockades and have therefore, attempted to put the said road out of use. No such road was in existence earlier. An alternate road is available, which was being used for many years by the earlier landlord. The earlier landlord never raised any complaint about any obstruction alleging at the behest of these petitioners.

5. It is then submitted that the agreement to sell dated 20/04/2000, in relation to one of the said lands does not mention the existence of any such road. The panchnama is unreliable for the

reason that the concerned Panch have stated that they have been parties to the panchanama, on request. It is, therefore, contended that when the panchanama is doubtful, any reliance on the said document by the competent authorities under the Act, would render the impugned orders perverse and erroneous.

6. The learned advocate appearing on behalf of the original applicants and the learned AGP on behalf of the State submitted that a spot inspection was performed with reference to the lands at issue. The five witnesses/panchas have noticed that there were clear signs of the existence of a road on the South side bandh of the two portions of land owned by these petitioners. Based on the said panchanama, one can easily assess that there was an existing road earlier which was blocked by the petitioners.

7. It is, further, pointed out that the sale deeds, by which, the applicants purchased the concerned lands, specifically indicates the existence of a road as is noticed by the Tahsildar. These sale deeds pertain to the transactions that have occurred in April, 2000. It, therefore, cannot be said that the original applicants have created documentary evidence only to suit their case.

8. I find from the above recorded factors that the original land owners, who have subsequently sold these lands to the applicants,

have mentioned in the sale deeds that such a road was existing. Humans may lie but documents would not lie. These documents relate to the transactions that have taken place in April, 2000 and the dispute as regards the blocking of the road has been raised in the year 2015. These documents, therefore, cannot be said to have been created by the original applicants for self serving purposes.

9. Considering the material available and upon going through the reasons assigned by both the authorities below, I do not find that the impugned order could be termed as being perverse or erroneous. Merely because a different view is possible, would not warrant any interference in such orders.

10. As such, this petition being devoid of merits, is therefore, dismissed.

( RAVINDRA V.GHUGE, J. )