

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8410 OF 2016

Vazir Abdul Barmare (decd) through LRs Nazima
Vazir Barmare and others ... Petitioners
Vs.
Vilas Kamal Dhumal and others ... Respondents

Mr. M. Saeed Kadu for Petitioners.

CORAM : R. G. KETKAR, J.
DATE : NOVEMBER 22, 2018

P.C. :

Heard Mr. Kadu, learned Counsel for the petitioners at length.

2. This Petition takes exception to the order dated 01.01.2015 passed by Tahsildar, Alibaug in Vahivat Suit No.2 of 2012 filed under Section 5 of the Mamlatdar's Court Act, 1906 (for short 'Act') as also the order dated 24.08.2015 passed by the Sub-Divisional Officer, Alibaug Sub-Division, Alibaug in Revision Application No.3 of 2015. By these orders, the Authorities below allowed the application filed by the first respondent herein and directed the petitioners to remove the impediment caused to the first respondent in approaching his property bearing Survey No.4/1A.

3. In support of this Petition, Mr. Kadu submitted that the Authorities below committed several errors of law apparent on the face of record. The impugned orders are perverse. By the impugned orders, the Authorities below have issued directions against the petitioners to make available motorway to the first respondent. He, therefore, submitted that Petition requires consideration.

4. I have considered the submissions advanced by Mr. Kadu. I have

also perused the material on record. A perusal of Tahsildar's order dated 01.01.2015 shows that though several opportunities were given to the petitioners, they did not participate in the proceedings and ultimately, ex-parte decision was taken by the Tahsildar. A perusal of the order passed by the S.D.O. shows that after considering the material on record, the S.D.O. has confirmed the order passed by the Tahsildar. For the reasons recorded in the impugned orders, I do not find that the Authorities below committed any error. Petitioners were not in a position to demonstrate that the findings recorded by the Authorities below are perverse, being based upon no evidence or that they are contrary to the evidence on record. Petitioners were also not in a position to demonstrate that no reasonable person would have arrived at the conclusions other than arrived by the Authorities below. Hence, no case is made out for invocation of powers under Article 227 of the Constitution of India. Petition fails and the same is dismissed.

(R. G. KETKAR, J.)

Minal Parab