

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO.204 OF 2019

SHRIRANG MALHARRAO AGHAV AND OTHERS
VERSUS
DIGAMBER SITARAM AGHAV AND OTHERS

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Advocate for the Petitioners : Shri Jadhavar Shivprasad G.
Advocate for Respondent nos.1 to 7 : Shri Mahesh P. Kale
AGP for Respondents 8 to 13 : Shri S.W.Munde

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 03rd September, 2019

Per Court :

1 The petitioners are aggrieved by the order dated 15.05.2018 passed by the Tahasildar under Section 5(2) of the Mamlatdars' Courts Act, 1906. They are also aggrieved by the order dated 27.11.2018 passed by the Revisional Authority under Section 23(2).

3 I have considered the strenuous submissions of the learned advocates for the respective sides and the learned AGP on behalf of respondent nos.8 to 13.

4 The record clearly indicates that there is a foot-way in the suit property at issue. The respondents/ agriculturists, though had claimed for a cart road, their said request has not been granted and the obstacle

created by the petitioners in the foot-way has been cleared. The foot-way has been said to be in use for a long time. The Revisional Authority has also concluded that there is no cart road and what is found to be used for a long time is the foot-way.

5 The learned advocate for the petitioners voices an apprehension that the respondents/ agriculturists are trying to create the cart-way in place of the foot-way.

6 Shri Kale, learned advocate appearing for the agriculturists/ respondent nos.1 to 7, submits that there is no confusion in their mind that the foot-way is already in place and is in use for a long time and the petitioners are directed not to obstruct anybody from using the said foot-way. He further submits that the petitioners have preferred Regular Civil Suit No.128/2013 in which, his clients have filed the counter claim. The application for temporary injunction filed by the petitioners has been rejected and the temporary injunction at the request of the respondents/ agriculturists has been clamped upon the petitioners in the counter claim.

7 In view of the above, this Writ Petition is without merit and stands dismissed.

8 Needless to state that the Trial Court would consider the pending proceedings on their own merits.