

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

WRIT PETITION NO.7482 OF 2018

DILIP MALHARI NEMANE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. D.A. Mane h/f P A Bharat
AGP for Respondent Nos.1 to 4 : Mr. K B Jadhavar
Advocate for Respondents 8,9, 5A, 6A: Mr.Tarde Vivek V.
Mr D M Pingale Advocate for respondent No.10-A.

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CORAM : V.K. JADHAV, J.
Dated: December 11, 2019

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PER COURT :-

1. Learned counsel for both the parties, on instructions, submits that, the respective clients have no objection if the matter is remanded to the Tahsildar, Shevgaon.

2. It appears that the copy of the village map is produced on record indicating the road in between the land of the petitioner/original applicant bearing gat no.191/1 and the land survey no.190 belonging to respondents nos. 5 to 11. So far as Shevgaon-Georai road which is shown in existence on the map drawn by

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the learned Tahsildar, Shevgaon, I do not find any access road from the land gat no.191/1 owned and possessed by the petitioners/original applicant to said Shevgaon-Georai road. The petitioner/original applicant has to cross the land gat no.190 owned and possessed by the respondent nos. 5 to 11 to access the said Shevgaon-Georai road. However, the learned Tahsildar, Shevgaon has neither commented on the same nor called upon the opponents to explain about it. It also appears that respondents/original opponents in their reply to the revision application filed before the revisional authority also accept that they have sold some portion from their land as an access road to the owner of the land gat no.192.

3. In view of the above and in the light of the consent given by both the sides, I proceed to pass the following order.

ORDER

1. Writ Petition is hereby partly allowed.

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2. The impugned judgment and order dated 06.12.2017 passed by the Sub Divisional Officer, Pathardi in Revision no.61 of 2016 and the judgment and order dated 30.3.2016 passed by the Tahsildar, Shevgaon in Rasta Case No.37 of 2014 are hereby quashed and set aside.
3. Matter is remanded to the Tahsildar, Shevgaon with the following directions :-
 - a] Restore original application bearing Rasta Case No.37 of 2014 to its original number.
 - b] The Tahsildar, Shevgaon shall inspect the spot again and draw the spot panchnama afresh.
 - c] Parties, if so desire, may lead the evidence in support of their rival contentions and the Tahsildar, Shevgaon after giving an opportunity of being heard to both the sides, shall decide the application bearing Rasta Case No.37 of 2014, afresh within a period of six months from the date of this order.

(V.K. JADHAV, J.)

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