

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8058 OF 2018

AABA ABHIMAN PATIL
VERSUS
THE SUB DIVISIONAL OFFICER AMALNER AND OTHERS

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Advocate for Petitioner : Shri Patil Prakashsing B.
AGP for Respondents 1 & 2 : Shri Shri Yadav (Lonikar) S.R.
Advocate for Respondent 3 : Shri Rane Girish S.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: January 21, 2019

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PER COURT :-

1. I have heard the learned Advocates for the respective sides and the learned AGP for respondents 1 and 2.

2. Shri Patil, learned Advocate points out that, earlier, respondent No.3 had approached the Tahsildar under the Mamalatdar Courts Act under Section 5(2). When the proceedings were in progress and a spot inspection report came on record, the sole applicant, namely, Ramlal moved a purshis stating that the parties have resolved their dispute and hence, Ramlal does not intend to continue with the proceedings. The petitioner Aba Abhiman Patil had not signed on the said purshis dated 11.1.2005.

Yet the Tahsildar passed the order dated 25.1.2005, thereby, disposing off the Wahiwat Case No.6 of 2004.

3. Grievance is that after a passage of about 12 years, the Mamalatdar issued an undated order, which is said to be dated 1.4.2017, and the petitioner was directed not to obstruct Ramlal with regard to the Wahiwat. As the petitioner was not issued with any notice and was not served, he preferred his revision before the revisional authority under Section 23(2). By the impugned order dated 7.4.2018, the revisional authority concluded that the Mamalatdar has not passed any order under Section 5 and hence the revisional authority cannot exercise its jurisdiction under Section 23(2).

4. Having gone through the communication which is said to be dated 1.4.2017, I do not find it to be an order passed under Section 5(2) of the Mamalatdar Courts Act. The learned AGP submits, on instructions, that the Tahsildar has not passed any order under Section 5.

5. Learned Advocate for the petitioner, therefore, submits that he would avail of an appropriate remedy for challenging the

communication of the Tahsildar, dated 1.4.2017, as is permissible under any law applicable.

6. In view of the above, this petition is disposed off leaving it open to the petitioner to avail of the remedy as is permissible in law.

(RAVINDRA V. GHUGE, J.)

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