

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8053 OF 2018

1. Kundalik Jaywant Kunjir,
Since deceased, through L.Rs.

1A. Bhausahab Kundalik Kunjir
Age 52 years. Occ. Agriculture.

2A. Smt. Nanda Kundalik Kunjir
Age 72 years. Occ. Household.

2. Popat Jaywant Kunjir,
Age 75 years Occ. Agriculture,

3. Balasaheb Jaywant Kunjir,
Age 73 years, Occ. Agriculture.

All R/o Wangdari, Tq. Srigonda,
District Ahmednagar.

..Petitioners

Versus

1. The Sub Divisional Officer,
Shrigonda Parner Division,
Ahmednagar.

2. The Tahsildar,
Shrigonda, Dist. Ahmednagar.

3. Bajirao Narayan Kunjir
Age 65 years, Occ. Agriculture,

4. Nitin Bajirao Kunjir,
Age 48 years, Occ. Agriculture,

5. Nilkant Bajirao Kunjir,
Age 45 years, Occ. Agriculture,

6. Nilesh Bajirao Kunjir,
Age 43 years, Occ. Agriculture

Respondents 3 to 6 R/o Wangdari,
Tq. Srigonda, District Ahmednagar.

..Respondents

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Advocate for Petitioner : Shri Karpe Rahul R.
AGP for Respondents 1 & 2 : Shri Yadav (Lonikar) S.R.
Advocate for Respondents 3 to 6 : Shri Patil Vinod P.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 27, 2019

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ORAL JUDGMENT:-

1. Heard the learned counsel for the respective parties.
2. Rule.
3. By consent, Rule is made returnable forthwith and the petition is taken up for final hearing.
4. The petitioners are aggrieved by the concurrent orders passed by the Tahsildar in Rasta Case No.4 of 2018, under Section 5(2) of the Mamalatdar Courts Act, dated 12.6.2018 and the order passed by the revisional authority dated 9.7.2018 under Section 23(2) of the said Act.
5. The learned counsel for the petitioners strenuously contends that the application filed by the original applicants before the Tahsildar, was not maintainable because it was filed under an apprehension that there would be an obstruction. It is then

contended on the basis of the pleadings in paragraph No.6 of the Writ Petition that the spot inspection, panchanama and the map, were drawn in the absence of the present petitioners. It is also contended that the Sub Divisional Officer has passed an order and that he has no authority under Section 23(2) of the said Act.

6. The learned AGP points out, on the basis of the stand taken by the State Government in the matter of Gopinath Ramchandra Karpe and others Vs. The Sub-Divisional Officer, Shirdi and others - Writ Petition No.3275 of 2018, that the revisional authority in the State of Maharashtra is either the Additional Collector or the Deputy Collector. Such a Deputy Collector performs his functions as Sub Divisional Officer under the Maharashtra Land Revenue Code and as a revisional authority under the said 1906 Act. I, therefore, find that the contention of the petitioner on this count is unsustainable.

7. In so far as the contention that the application was filed under apprehension is concerned, I find from the pleadings in the said application that these petitioners are alleged to have called upon the female members of the family to create blockades and file false cases against the male members of the original applicants' family on the ground of outraging their modesty. At times, they park their tractors so as to block the path. They physically blocked the original

applicants and indulged in verbal abuse. It is thus set out in the application that these are different modes, by which, these petitioners have been blocking the *vahiwat*. As such the contention that the application is filed on apprehension, is unsustainable.

8. In so far as the spot inspection, drawing of the panchanama and preparation of the sketch map is concerned, the learned AGP points out from the revenue records that, one of the petitioners, namely, Bhausahab Kundlik Kunjir was present at the site at the time of the panchanama and he refused to sign, after the panchanama was drawn. He also refused to sign the sketch map.

9. I find that though one representative of the petitioners, namely, Bhausahab, who is the son of the deceased Kundlik Kunjir, had remained present, a statement is made in the petition that the panchanama was drawn in their absence. The learned AGP submits that notices were served according to the revenue records. Learned Advocate for respondents 3 to 6 submits that colour photographs obtained from the Google map as well as the actual site are placed on record, which would indicate the exact location of the *vahiwat* and the blockades created by these petitioners.

10. In view of the above, I do not find that the concurrent findings

of the Tahsildar as well as the revisional authority, could be faulted or could be branded as being perverse or erroneous.

11. In fact, I had expressed that the costs would be imposed upon the petitioners for making an incorrect statement in the petition, with oblique motives. However, learned counsel for the petitioners submits that two male members are 75 years' old and the mother of Bhausahab is about 73 years' old. It is prayed that costs may not be imposed.

12. Considering the above, this petition is dismissed. Costs of Rs.1,000/- is imposed only on Bhausahab and by the consent of the respondents, he shall deposit the said amount with the Government Medical College and Hospital, Aurangabad, **through Medical Officer, High Court Dispensary, Aurangabad**, either in cash or by Demand Draft (Demand Draft be drawn in the name of “**Dean, Government Medical College and Hospital Dengi Samiti, Aurangabad**”) on/or before 15.4.2019.

13. Rule is discharged.

(RAVINDRA V. GHUGE, J.)

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