

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11411 OF 2018

Machindra s/o Kisanrao Chede
& others

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr. D.A. Madake, Advocate for the petitioners.
Mrs. M.A. Deshpande, AGP for respondents no. 1 to 3.
Mr. V.S. Undre, Advocate for respondent nos. 4 to 12.

CORAM : M.S. KARNIK, J.
DATE : 7th August, 2019.

PER COURT :

1. Heard learned counsel for the petitioners.
2. Petitioners are the owners of the gat numbers 82, 86 and 87. It is their case that for approaching the said lands from eastern side, they were using the road adjacent to the canal which is passing through gat numbers 99 and 92. It is the submission of the petitioners that the road is in existence and is being used regularly as a road to approach gat number 82. Learned counsel for the petitioner would submit that it is the only road available and infact, there is a bridge over the canal which is being used by the petitioners. He would invite my attention to the findings of the Tahsildar and the panchanama drawn to show that there exists a road passing through gat numbers 99 and 92 but the respondents are causing obstruction to the petitioners to use the said road.

The Mamlatdar decided the application under Section 5 of the Mamlatdar Court Act in favour of the petitioners.

3. Respondents filed a revision before the Sub-Divisional Officer. The Sub-Divisional Officer, upon considering the panchamana and the material on record, came to the conclusion that there are no marks indicating that the said road is being used for a long time. The Sub-Divisional Officer therefore was of the opinion that there was no road in existence. The Sub-Divisional Officer however, passed further directions granting a right of way from the western side of the suit fields and, on the eastern side, a road is provided on the *bandh* between gat numbers 92 and 75.

4. I see no reason to interfere with the order passed by the Sub-Divisional Officer. It would obviously be open for the petitioners to seek appropriate relief seeking right of way availing the remedy as may be available in law. With these observations, writ petition stands disposed of.

(M.S. KARNIK, J.)

dyb/