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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITIOIN NO.8853 OF 2016

Vishnu Rajaram Karande & Ors

..Petitioners

Vs

Sudhakar Shankar Wadkar & Ors.

..Respondents

Mr. Sandeep D. Shinde I/b Ms. K.N. Hingol, for the Petitioners.

Mr. Prabhanjan Gujar for the Respondent No.1.

Ms. M.S. Bane, AGP for the State.

CORAM : A.S.GADKARI, J.

DATE : 4th June 2019.

P.C.:

1] Heard the learned counsel for the respective parties. Perused the record.

2] By the present petition under Article 227 of the Constitution of India, the petitioners have challenged the Order dated 29th June 2010 passed by the Sub-Divisional Officer, Wai in Mamlatdar Court Act Revision No.11 of 2010, confirming the Order dated 11.1.2010 passed by the Tahasildar, Wai under Section 5(1)(2) of Mamlatdars Courts Act, 1906.

3] The petitioners are the original respondents in Application preferred by the respondent Nos.1 to 6 herein under section 5 of The

Mamlatdars Courts Act, 1906, praying that, an immediate right of way along with area of land obstructed/encroached by the petitioners be removed. The Tahasildar, Wai by its Order dated 11.1.2010 allowed the said application directing the petitioners to give six feet wide road to the respondents by removing encroachment on the disputed land in question namely, Gat No.194/7 situated at village Chikhli, Taluka Wai. As noted above, the Sub-Divisional Officer, Wai in Revision No.11 of 2010 has confirmed the said Order.

4] The learned counsel for the petitioners submitted that, while conducting panchanama of the said land, Tahasildar did not give notice to the petitioners and in their absence the said panchanamas were effected. He submitted that, the Tahasildar has granted relief to the respondents which was not even sought by them in their original Application and the Tahasildar has directed the petitioners to give six feet wide pathway/road. He submitted that, the Revisional Authority committed grave error in not appreciating the evidence available on record. He therefore submitted that, both the authorities below have committed grave error in appreciating the facts available on record in its proper perspective and therefore the present petition be allowed by setting aside the Orders passed by the Authorities

below.

5] The Constitution Bench of the Supreme Court in the case of Syed Yakoob Vs. K.S. Radhakrishnan & Others, reported in AIR 1964 SC 477 while dealing with the scope of jurisdiction of the High Court, in issuing writ of certiorari has held that, it is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as a result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of record can be corrected by a writ, but not an error of fact, however, grave it may appear to be. It is further held that, a finding of fact recorded by the Tribunal cannot, however, be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding being within the exclusive jurisdiction of the Tribunal, the points cannot be agitated before a writ Court.

6] The petitioners are calling upon this Court to reappraise the evidence on record which is not permissible under the law. After applying the ratio laid down by the Apex Court in the aforesaid decision of the Constitution Bench and after perusing the entire record made available before me, I am of the considered view that, both the Authorities below have not committed any error either in law or on facts while passing the impugned Orders.

7] The present petition being devoid of merits, is accordingly rejected.

(A.S.GADKARI, J.)