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

WRIT PETITION NO. 10598 OF 2015

Shivanand Siddappa Bhusare and anotherPetitioners

V/s.

Saipan Maula Begade and othersRespondents

Mr. Prasad Kulkarni for the Petitioners

Mr. Ramdas Hake Patil for respondent nos. 1, 2, 4, 7 & 10

Mr. S. H. Kankal AGP for respondent nos. 11 & 12

CORAM : NITIN W. SAMBRE, J.

DATE : JUNE 6 2019.

P.C.

The petitioner suffered an order under Section 143 of the Maharashtra Land Revenue Code, 1966 (Hereinafter referred to as 'Code' for the sake of brevity) whereby the Tehsildar and Sub-Divisional Officer directed the petitioner to remove encroachment and clear the right of way by demolishing part of structure of stare case. As such, this petition.

2 According to the petitioner, orders impugned are not

sustainable as the Tehsildar has exercised powers under Section 143 of the Code and not under the provisions of Mamlatdar's Court Act, 1906. According to him, no such powers could be traced in the Code to pass an order impugned. In addition, a submission is made on the factual matrix that there exist another alternate road passing from the backside of the house of the petitioner and that being so, orders impugned are not sustainable.

3 The learned counsel for respondent-original complainant and the learned APP supports the order impugned and submits that order is just and proper.

4 Having considered rival submissions, position of law as enumerated is, merely because wrong provisions or name of a Statute is mentioned in the order, that by itself will not make an order illegal or without jurisdiction. Once it is demonstrated that the Authority has power under some other Statute to pass the impugned order, the order cannot be termed as illegal. It can be inferred from such provisions of Statute that the Authority is armed with powers to

pass the order like the one in the present case. In the case in hand under the Mamlatdar's Court Act so also the MLR Code, the power vested with the Tehsildar to pass an order and that being so, the Tehsildar has rightly passed the order impugned.

5 Apart from above, the Authority has recorded finding of fact. Both the Authorities below have concurrently held that the petitioner is liable to remove encroachment and that being so, the Court is not inclined to show any indulgence or interference in extraordinary jurisdiction.

6 Petition as such fails, dismissed.

[NITIN W. SAMBRE, J.]