

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

WRIT PETITION NO. 2956 OF 2018

Pranavaditya Spinning Mills Ltd. ..Petitioner

V/s.

Mohit Chandrakant Gandhi and ors. ..Respondents

Ms. Meena H. Doshi for the Petitioner.

Mr. P.B. Bhargude for Respondent Nos.1 and 4.

Mr. S.D. Rayrikar, AGP for Respondent Nos. 5 and 6.

CORAM : C.V. BHADANG, J.

DATE : 16th DECEMBER, 2019

P.C.

1. Heard learned counsel for the parties for some time and I do not find that any case for interference is made out in the impugned order of remand.

2. The dispute arises out of claim of right of way which was allegedly obstructed. The respondent Nos. 1 to 4 had approached Mamlatdar under Section 5 of Mamlatdar Court's Act (Act "in short"). The Mamlatdar decided the matter by order dated 31.1.2013 which was set aside by the Appellate Authority on 28.3.2013 and remitted the matter back to the Mamlatdar which was first order of remand. After this remand, the Mamlatdar has again decided the application by order dated 4.7.2013 granting application on the basis of concession on behalf of the petitioner, by virtue of pursis dated 15.12.2017 by which the petitioner has conceded to set apart strip having width of 10ft. from its land alongwith 10ft. land of the respondents together to make a way having width of 20ft. The said order was challenged by respondent

No.1 before the Appellate Authority and by impugned order dated 14.8.2015 the Appellate Authority has again remanded the matter back to the Mamlatdar.

3. On a careful perusal of the impugned order, and particularly, when the matter is remanded back to the Mamlatdar where the parties would get adequate opportunity to raise all contentions, no case is made out for interference.

4. Mrs. Joshi, the learned counsel for the petitioner states that order dated 4.7.2013 having been set aside, the petitioner shall not be bound by their pursis dated 15.12.2017. The statement so made is accepted. Thus, subject to the Mamlatdar deciding the application on its own merits and in accordance with law, petition is disposed of with no order as to costs.

5. All rival contentions of the parties both on law and facts are expressly kept open. Parties to appear before the Mamlatdar on 13.1.2020. The Mamlatdar shall decide the application as expeditiously as possible and preferably within a period of three months from the date of appearance of the parties.

[C.V. BHADANG, J.]