

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

WRIT PETITION NO. 11095 OF 2016

Machindra Barku Chichavane & Ors.	...	Petitioners
V/s.		
Laxman Barku Chichavane & Anr.	...	Respondents

Ms.Avanti Inamdar i/b. Mr.R.N. Gite for Petitioners.
Mr.S.B. Deore i/b. Mr.V.D. Kadam for Respondent No.1.
Ms.V.S. Nimbalkar, AGP for Respondent No.2.

CORAM : A.S. GADKARI, J.

DATE : 1st October 2019.

P.C. :

1] By the present Petition, the petitioners have taken exception to the Judgment and Order dated 3rd May 2016 passed by the Sub-Divisional Officer, Yeola Sub Division, Yeola in RTS Revision No. 9 of 2016 passed under Section 23(2) of the *Mamlatdars' Courts Act, 1906 (for short, "said Act")*, rejecting the said Revision and confirming the Order dated 26th June 2009 passed in Vahivat Case No.14 of 2008 by the Tahsildar, Yeola, in Application filed under Section 5 by the respondent No.1.

2] Heard Ms.Inamdar, learned counsel for the petitioners, Mr.Deore, learned counsel for the respondent No.1 and Ms.Nimbalkar, learned AGP for the respondent No.2. Perused the record.

3] The record indicates that, the respondent No.1 had filed an application under Section 5 of the said Act on 7th October 2008 seeking directions against the petitioners, not to create obstruction in the road which was under easementary use of the respondent No.1 and for other consequential reliefs. The record indicates that, before the Tahsildar could inspect the site and hear the said application on merits, the petitioners and the respondent No.1 entered into a 'Compromise-Deed' dated 1st June 2009, wherein the petitioners agreed to give 10 feet wide road ad-measuring 600 feet in length for the common use of the respondent No.1 for his ingress and egress to his agriculture field. The Tahsildar after taking the said compromise-deed on record disposed off the said Vahivat Case No.14 of 2008 by its Order dated 26th June 2009. The Revision preferred by the petitioners has been rejected by the Sub-Divisional Officer, Yeola by its impugned Judgment and Order dated 3rd May 2016.

4] The learned counsel for the petitioners submitted that, prior to execution of the said Compromise-Deed dated 1st June 2009 another

Compromise-Deed was executed between the parties on 22nd December 2008, wherein the petitioners had agreed to give 8 feet wide road for ingress and egress of the respondent No.1 to his agriculture field. However, in the second compromise-deed dated 1st June 2009, the width of the said road was stealthily increased by the respondent No.1 from 8 feet to 10 feet. She submitted that, as the respondent No.1 played fraud against the petitioners, the impugned Orders needs to be quashed and set-aside.

5] A perusal of the record would indicate that, the compromise-deed dated 1st June 2009, is a duly Notarized document. The petitioners and the respondents have signed the said compromise-deed in presence of their Advocates. When the said document was produced before the Tahsildar on 26th June 2009, the Tahsildar read it over in open Court in presence of the Advocates of both the parties and in view thereof, the Tahsildar, Yeola, after taking into consideration the said proceedings was pleased to dispose off the said Vahivat Case No.14 of 2008 by directing the petitioners and the respondent No.1 to adhere to the clauses mentioned in the compromise-deed. It has been further directed that the petitioners herein will not obstruct the way of the respondent No.1 in

view of the terms of the agreement mentioned in the compromise-deed.

6] As noted earlier, the said compromise-deed was read-over in open Court by the Tahsildar, Yeola, in presence of Advocates of both the parties and therefore, there is no question of any subsequent amendment and/or misrepresentation made to the petitioners by the respondent No.1 in the matter.

7] According to me, the contentions of the petitioners are misconceived and *dehors* of merits.

In view of the above, Petition is dismissed in *limine*.

[A.S. GADKARI, J.]