

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAW) NO. 422/2019

IN

WRIT PETITION NO. 7095/2018

Pandurang B. Patil

..VS..

Sarangdhar G. Dhore & ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.B. Patil, Advocate for the applicant/petitioner
Shri A.M. Tirukh, Advocate for the non-applicant/respondent nos. 1 and 2
Shri K. Deogade, Advocate for the non-applicant/respondent nos. 4 and 5
Ms. Geeta Tiwari, AGP for the non-applicant/respondent nos. 6 and 7

CORAM : Z.A.HAQ, J.

DATED : 11/06/2019

For the reasons stated in the application, the applicant – petitioner is permitted to amend the petition as prayed for.

The civil application is **allowed** accordingly.

WRIT PETITION NO. 7095/2018

Heard.

The application filed by the petitioner under Section 5 of the Mamlatdars' Courts Act, 1906 is dismissed on the ground that it is barred by limitation. On merits, the authorities have found that there is an alternate way available to the petitioner to approach his field.

The issues raised in the petition require consideration.

Hence, **RULE.**

Shri A.M. Tirukh, Advocate waives notice for the respondent nos. 1 and 2, Shri K. Deogade, Advocate waives notice for the respondent nos. 4 and 5 and Ms. Geeta Tiwari, AGP waives notice for the respondent nos. 6 and 7.

The report submitted by the Naib Tahsildar before the Mamlatdar shows the alternate way, which according to the respondents is available to the petitioner. The report states that this way passes through the percolation tank. The learned advocate for the petitioner has submitted that during the season when agricultural operations are to be carried out, the alternate way cannot be used.

The way, which according to the petitioner was used by him and is obstructed by the respondents, is admittedly used by the owner of Survey No. 48/1 which field is on the eastern side of the petitioner's field Survey No. 48/2.

Considering the facts of the case, in my view, the petitioner is entitled for interim order.

There shall be interim order in terms of prayer clause (b) till disposal of the writ petition.

JUDGE