

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CONTEMPT PETITION NO. 257 OF 2021
IN
WRIT PETITION NO. 6074 OF 2018**

1. Tarabai Ravsaheb Chaudhari
Age: 58 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
2. Bhausahab S/o Rambhau Chaudhari
Age: 56 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
3. Siraram S/o Rambhau Chaudhari
Age: 52years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar

... Petitioners

Versus

1. The State of Maharashtra
Through its District Collector,
Ahmednagar
2. The Sub divisional Officer
Pathardi Division, Pathardi,
Dist. Ahmednagar
3. The Tahasildar,
Pathardi, Tq. Pathardi,
Dist. Ahmednagar.
4. Kushinath S/o Laxman Karale
Age 60 years, Occu : Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
5. Sharad S/o Kushinath Karale
Age: 30 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar

6. Parmeshwar S/o Sambhaji Karale
Age: 28 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
 7. Balu @ Balasaheb S/o Baburao Karale
Age: 31 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
 8. Baburao S/o Laxman Karale
Age: 50 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
 9. Sambhaji S/o Laxman Karale
Age: 65 years, Occu: Agri.,
R/o Joharwadi, Tq. Pathardi,
Dist. Ahmednagar
- ... Respondents

(Respondent Nos.5 to 9 deleted as
per Court's order dtd.08.07.2021)

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Mr. Arvind G. Ambetkar, Advocate for the Petitioner
Mr. Y.G. Gujrathi, A.G.P. for Respondent Nos. 1 to 3 / State.

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CORAM : SHRIKANT D. KULKARNI, J.

Closed for Order on : 22.07.2021

Order Pronounced on : 04.08.2021

PER COURT:-

1. It is a motion for contempt moved by the petitioners by taking aid of Section 12 of the Contempt of Courts Act, 1971.
2. Heard Mr. A.G. Ambetkar, learned counsel for the petitioners in order to see whether petitioners have made out a case for initiating contempt.

3. According to Mr. Ambetkar, learned counsel for the petitioners, Mamlatdar / Tahsildar, Pathardi has passed order in Vahivat (Rasta) Case No. 49/2015 against the petitioners. The petitioners have challenged the same judgment and order by way of revision application no.140/2018 before the Sub Divisional Officer, Pathardi Division, Pathardi. The Sub Divisional Officer, Pathardi Division, Pathardi was pleased to dismiss the Revision Application and confirmed the order passed by the Mamlatdar / Tahsildar, Pathardi. The petitioners have challenged the above said two orders by filing writ petition no.6074 of 2018 before the High Court. In the said writ petition, the High Court vide order dated 20.06.2018, was pleased to grant *ad-interim* relief in terms of prayer clause 'B', thereby stayed above said two orders passed by the Mamlatdar / Tahsildar, Pathardi as well as the Sub Divisional Officer, Pathardi Division, Pathardi. The petitioners have submitted the order passed by the High Court granting stay to the operation of the orders passed by the Mamlatdar / Tahsildar and Sub Divisional Officer, Pathardi before the above said two authorities. Accordingly, Mamlatdar / Tahsildar, Pathardi has not executed the said order.

4. Respondent nos. 4 to 9 have knowledge of the said order passed by the High Court. Even then, respondent nos. 4 to 9 / alleged contemnors have entered in the land of the petitioners and destroyed standing crops and disturbed their possession. The act of respondent nos. 4 to 9 amounts to contempt of the order of this Court. One incident of assault had taken

place in which the son of petitioner no.2 Sharad had sustained grievous injuries and criminal case has been registered about that incident with Pathardi Police Station. According to Mr. Ambetkar, the act of respondent nos. 4 to 9 amounts to disobedience of the order passed by the High Court, and therefore, respondent nos. 4 to 9 are liable for action under the Contempt of Courts Act, 1971.

5. Having regard to the argument advanced by Mr. Ambetkar, learned counsel for the petitioners, perused the orders passed by the Mamlatdar / Tahsildar under the Mamlatdar's Courts Act, 1906 in Vahivat (Rasta) Case no. 49/2015 as well as the order passed by the Sub Divisional Officer, Pathardi Division, Pathardi in Revision Application no. 140/2018 and interim order passed by this Court in writ petition no. 6074 of 2018.

6. The factual scenario regarding Vahivat (Rasta) Case, decision therein at the hands of Mamlatdar / Tahsildar, Pathardi, which came to be confirmed at the hands of Sub Divisional Officer, Pathardi Division, Pathardi appears to be correct as argued by Mr. Ambetkar. The question is about alleged contempt committed by respondent nos. 4 to 9. It is material to note that respondent nos. 5 to 9 were not parties to the above said Rasta Case proceedings. The names of respondent nos. 5 to 9 came to be deleted as per order passed by this Court dated 08.07.2021. Respondent no.4 alone is remained as alleged contemnor.

7. On going through the order passed by this Court in writ petition no.6074 of 2018 dated 20.06.2018, plays important role, which reads thus:

“5. As such, there shall be *ad-interim* relief in terms of prayer clause ‘B’.”

8. In view of *ad-interim* relief granted by this Court in above said writ petition, the operation and execution of the order dated 29.08.2016 passed in Vahivat (Rasta) Case no. 49/2015 passed by the Mamlatdar / Tahsildar, Pathardi and which came to be confirmed by the Sub Divisional Officer, Pathardi Division, Pathardi, District Ahmednagar in Revision Application no.140/2016 is stayed. Section 21 of the Mamlatdar's Courts Act, 1906 relates to execution of Mamlatdar's decision and how it is to be executed. In view of the *ad-interim* stay granted by this Court, the execution of the order passed by the Mamlatdar / Tahsildar, Pathardi is stayed. There is no prohibitory order against respondent no.4 passed by this Court. There is no injunction order against respondent no.4. Respondent no.4 is not prohibited by any judicial order to enter into the disputed land, which is being used for Rasta / road. It is open for the petitioners to avail appropriate legal remedy, if respondent no.4 is causing disturbance to their possession and using the road through the lands of the petitioners. As on today, there is no order passed by this Court against respondent no.4. The order passed by this Court in above said writ petition is to the extent of staying operating and execution of the order passed in Vahivat (Rasta) Case no. 49/2015.

Respondent No.3 / Tahsildar, Pathardi has stayed the operation and execution of the order passed in above said Rasta Case. No willful disobedience.

8. Having regard to the above reasons and discussion, the petitioners have failed to make out a *prima facie* case to initiate contempt proceedings against respondent no.4.

ORDER

(i) The contempt proceedings initiated against respondent no.4 stands purged.

(SHRIKANT D. KULKARNI)
JUDGE

S.P Rane