

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

WRIT PETITION NO.8336 OF 2018

1) Shivanand Machindra Giri,
Age 39 years, Occ. Service.

2) Atresh Machindra Giri,
Age 45 years, Occu :

3) Satish Machindra Giri,
Age 60 years, Occu :

All r/o. Shirala Tq. & Dist.
Latur.

... **Petitioners.**

VERSUS.

1) The State of Maharashtra,
Through its Secretary,
Maharashtra Land Revenue Department,
Mantralaya Mumbai – 32.

2) The Circle Officer,
Chincholi (B.) Tq. & Dist. Latur.

3) The Talathi,
Talathi Sajja, Shirala,
Tq. & Dist. Latur.

4) Dhondiram Limbaji Bhadre,
Age 70 years, Occ. Agriculture,
R/o. Shirala Tq. & Dist. Latur.

... **Respondents.**

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Advocate for Petitioners : Mr. Suhas P. Urgande.

A.G.P for the Respondent Nos. 1 to 3 : Mr. K.B. Jadhavar.

Advocate for Respondent No. 4 : Mr. Ramraje A. Deshmukh.

CORAM	:	MANGESH S. PATIL, J.
DATE	:	06.10.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. Perused the record of the Mamlatdar Court produced by the learned A.G.P. across the Bar.

3. In a proceeding under Section 5(2) of the Mamlatdars' Courts Act initiated by the respondent No. 4, the petitioners are the defendants. By submitting an application (Exh. 'E' page 71) they prayed to stay the proceeding on the grounds mentioned therein. The learned Mamlatdar in one word rejected the application. There are no reasons and one cannot predict what must have transpired in the mind of learned Mamlatdar before passing this one word order. Needless to state that the provisions of the Mamlatdars' Courts Act required him to conduct the proceeding as if it was a suit. Still, unmindful of the provisions of law and the powers exercisable by him, he has passed such one word order rejecting the application. He could have at least cursorily or briefly given some reasons for rejecting the application. He has failed to exercise the jurisdiction vested in him and the order, indeed, being arbitrary and capricious, deserves to be quashed and set aside.

4. Simultaneously, it needs to be borne in mind that it is a proceeding under Section 5(2) of the Mamlatdars' Courts Act and it is expected of the learned Mamlatdar to decide the main proceeding expeditiously. It would, therefore, be appropriate to direct him to decide the main matter in a time bound manner in stead of calling upon him to pass a fresh order on the petitioners' application which would further prolong the final adjudication.

5. The Writ Petition is allowed. The impugned order is quashed and set aside. The learned Mamlatdar shall now decide the main proceeding

initiated by virtue of application dated 18.05.2018 which is at page 59 of the Writ Petition after extending an opportunity to both the sides as is contemplated in law, within three months.

6. The Rule is made absolute.

(MANGESH S. PATIL, J.)

mkd/-