

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 10958 OF 2017

BHASKAR S/O BABURAO KATORE AND OTHERS  
VERSUS  
THE SUB DIVISIONAL OFFICER, SHRIGONDA-PARNER  
BHAG AND OTHERS

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Advocate for the Petitioners : Mr. R. B. Temak  
AGP for Respondent Nos. 1 & 2 : Mr. K. B. Jadhavar  
Advocate for Respondent Nos. 3 & 4 : Mr. P. B. Shirsath  
Advocate for Respondent Nos. 5 to 13 : Mr. S. P. Salgar h/f  
Mr. N. V. Gaware

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**CORAM : V. K. JADHAV, J.**  
**DATED : 11<sup>TH</sup> FEBRUARY, 2021**

**PER COURT :-**

1. Heard finally with consent at admission stage.
2. This is about *rasta* case.
3. Respondent nos. 5 to 13 have filed Rasta Vahivat Case No. 24 of 2012 under Section 5(2) of the Mamlatdars' Courts Act, 1906 before Tahsildar, Shrigonda. According to them, they are the owners in possession of land Gat Nos. 121, 123, 125, 126, 127, 132 and 152 and the petitioners and respondent nos. 14 to 16 are the owners in possession of  
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land Gat Nos. 149, 150 and 152 respectively. Their lands are adjacent to each other. According to them, there is a traditional way since 50 to 60 years from the land Gat No. 154 continued from the *bandh* of land Gat nos. 149, 154 and thereafter from land Gat Nos. 150 and 152. They are using the said cart way for various purposes along with the other villagers. However, the petitioners and respondent nos. 14 to 16 have closed the said way on 01.07.2012. Accordingly, respondent nos. 5 to 13 have prayed for removal of the impediments on the said road.

4. The Tahsildar, Shrigonda, by order dated 22.02.2013, directed the petitioners and respondent nos. 14 to 16 herein to remove the impediments and further not to obstruct the said way as claimed by respondent nos. 5 to 13 (original applicants). It appears that by order dated 25.06.2013, the Tahsildar, Shrigonda has noticed certain typographical mistakes in the said order and corrected the same to the extent of the operative part of the order.

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5. Being aggrieved by the same, present petitioner no. 2 preferred Revision before Sub-Divisional Officer, Karjat. By order dated 19.05.2014, the Sub-Divisional Officer has allowed the said revision partly and further quashed and set aside the order passed by the Tahsildar, Shrigonda dated 22.02.2013 and also the corrected order dated 25.06.2013. Learned Sub-Divisional Officer, Shrigonda-Parner Bhag, Ahmednagar has remanded the matter to the Tahsildar, Shrigonda by directing to give fair opportunity of hearing to the petitioners. After remand, Tahsildar, Shrigonda, by the judgment and order dated 10.10.2016, has allowed the said Rasta Vahivat Case No. 24 of 2012 and directed the petitioners and the respondent nos. 14 to 16 to remove the impediment as per the prayer made in the said Rasta Vahivat case.

6. Being aggrieved by the same, respondent nos. 3 and 4 herein preferred Revision No. 225 of 2017 and by the impugned judgment and order dated 10.07.2017, the Sub-Divisional Officer, Shrigonda-Parner Bhag, Ahmednagar has

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allowed the said Revision, quashed and set aside the order dated 10.10.2016 passed by Tahsildar, Shrigonda and confirmed the order passed by Tahsildar, Shrigonda dated 25.06.2013. Being aggrieved by the same, respondent nos. 1 to 3 in Rasta Vahivat Case No. 24 of 2012 have preferred this Writ Petition.

7. Learned counsel for the petitioners submits that in Revision No. 22 of 2013 the Sub-Divisional Officer once quashed and set aside the orders passed by Tahsildar, Shrigonda dated 22.02.2013 and 25.06.2013 and remanded the matter to the Tahsildar concerned. However, after remand, the Tahsildar concerned has decided the matter by allowing the Rasta Vahivat Case by the order dated 10.10.2016. Thereafter, in the revision preferred by respondent nos. 3 and 4 herein, bearing Rasta Vahivat Revision No. 225 of 2017, the Sub-Divisional Officer again restored the said order dated 25.06.2013. Learned counsel submits that the Sub-Divisional Officer has no power to review his own order. Learned counsel submits that the

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present petitioners are the sufferers because of these contrary orders and as such, this Writ Petition deserves to be allowed.

8. Learned counsel for respondent nos. 5 to 13-original applicants has supported the order dated 10.07.2017 passed in Revision No. 225 of 2017 by the Sub-Divisional Officer.

9. It appears that respondent nos. 5 to 13 herein have approached Tahsildar, Shrigonda by filing an application under Section 5 (2) of the Mamlatdars' Courts Act, 1906 which is registered as Rasta Case No. 24 of 2012 with the specific pleading about existence of the road on the *bandh* of land Gat Nos. 149, 154, 150 and 152. By order dated 22.02.2013, with the corrected order dated 25.06.2013 to the extent of typographical mistake, the Tahsildar has recognized the existence of the road from the *bandh* of land Gat nos. 149 and 154 and land Gat nos. 150 and 152. Being aggrieved by the said order, only petitioner no.2 has approached the Sub-Divisional Officer by filing Revision No.

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65 of 2013 with the specific contention that he had no notice about the said proceedings and without giving an opportunity of being heard, the said order was passed.

10. Petitioner no. 2 Aananda claims to be the owner of land Gat no. 152 and denied the existence of the said road from the *bandh* of his land. Thus, considering the revision to that extent only, the Sub-Divisional Officer, Shrigonda-Parner Bhag, Ahmednagar has remanded the matter to the Tahsildar, Shrigonda by setting aside the orders dated 22.02.2013 and 25.06.2013. After remand, though learned Tahsildar, Shrigonda has allowed the Vahivat Case No. 24 of 2012, however, it appears that learned Tahsildar has passed the order similar to the order dated 22.02.2013 i.e. prior to the correction by order dated 25.06.2013. Consequently, in Revision No. 225 of 2017 filed by respondent nos. 3 and 4 herein, learned Sub-Divisional Officer by giving reference to the panchanama drawn on the earlier occasion and so also after remand, passed the same order as per corrected order dated 25.06.2013.

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11. It is pertinent that petitioner nos. 1 and 3 herein have not preferred any revision against the said order dated 25.06.2013 and only petitioner no. 2 has preferred Revision No. 65 of 2013. Furthermore, after remand of the matter, even though the Tahsildar concerned has mistakenly passed the order as per order dated 22.02.2013 i.e. prior to correction, respondent nos. 3 and 4 have preferred Revision No. 225 of 2017. I have carefully perused the order dated 25.06.2013 which is in terms of the correction of the order dated 22.02.2013. The same is in terms of the prayers made in the Rasta Vahivat Case No. 24 of 2012. It appears that the present petitioners are taking undue advantage of the order passed before remand and after remand. In view of the same, I do not find any substance in this Writ Petition. Hence I proceed to pass the following order:

**ORDER**

The Writ Petition is hereby dismissed.

( V. K. JADHAV, J. )

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