

DDR

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

WRIT PETITION NO. 3705 OF 2018

IRAWWA KALAPPA SUDGADI & ORS. ..PETITIONERS

VS.

BHAGVANTRAO SHRISHAIL SUDGADI & ORS. .. RESPONDENTS

Mr. Ramdas Shelke for the petitioners.
Mrs. V.S. Nimbalkar, AGP for respondent No.5.
Mr. Umesh Mankapure a/w. Ms. Rati Sinhasane for respondent
Nos. 1 to 4.

CORAM : M.S.KARNIK, J.

DATE : MARCH 3, 2021

P.C.:-

Heard learned counsel for the petitioners.

2. The respondent Nos. 1 to 4 had made an application before the Mamlatdar under Section 5 of the Mamlatdars' Courts Act, 1906 (hereinafter referred to as 'the said Act' for short). The panchanama was drawn on the basis of which an order came to be passed by the Mamlatdar allowing the said application. The petitioners were directed to remove obstruction on the existing road.

3. The revision came to be filed by the petitioners under Section 23 (2) of the said Act before the Sub-Divisional Officer. The revision was dismissed.

4. It is the contention of the petitioners that the respondent Nos. 1 to 4 have an alternate road and there was no need for the respondent Nos. 1 to 4 to claim the suit way to approach to their land. According to the petitioners, the panchanama was prepared without notice. Learned counsel for the petitioners submitted that the contentions raised in the revision were not considered and the order passed by the revisional authority is an unreasoned order.

5. Learned counsel for the respondent Nos. 1 to 4 on the other hand submitted that the panchanama clearly indicates that existing road was tried to be blocked and there is no other approach road to the suit land. Further, my attention is invited to the findings of the Sub-Divisional Officer where it is recorded that the petitioners were duly noticed at the time of preparing panchanama. It is further submission of Mr. Mankapure that there are concurrent findings recorded and therefore the same do not call for any interference.

6. I have heard learned counsel for the parties.

7. Having gone through the order passed by the Sub-Divisional Officer, I find that the submissions made on behalf of the petitioners in the revision memo are not at all adverted to even briefly. The order is virtually an unreasoned order. Only on this ground the impugned order deserves to be set aside. Hence the following order.

ORDER

- i. The impugned order is set aside.
- ii. The Sub-Divisional Officer to hear the revision afresh on its own merits and in accordance with law. The revision to be decided within a period of six weeks from 10/3/2021. The parties to appear before the Sub-Divisional Officer on 10/3/2021.
- lii. All contentions are kept open.

8. I may not be understood to have expressed any opinion on merits of the controversy.

9. The Writ Petition is disposed of in the above terms.

Diksha
Rane

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Diksha Rane
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(M.S.KARNIK, J.)