

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

WRIT PETITION NO.4882 OF 2022

1. Balasaheb Kondiba Barathe
Age : 60 yrs, Occu : Agri,
2. Sagar Balasaheb Barathe
Age : 28 yrs, Occu : Agri,
3. Navnath Gulabrao Mohare
Age : 40 yrs, Occu : Agri,

All R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar

.. Petitioners

Versus

1. The State of Maharashtra
through the Collector
Ahmednagar, Dist. Ahmednagar
2. The Sub-Divisional Officer,
Shrigonda – Parner Division,
Ahmednagar
3. The Tahsildar,
Tahsil Office, Shrigonda,
Tq. Shrigonda, Dist. Ahmednagar
4. Uttam Namdev Mohare
Age : 60 yrs, Occu : Agri,
5. Pandurang Namdev Mohare
Age : 64 yrs, Occu : Agri,
6. Vitthal Namdev Mohare
Age : 68 yrs, Occu : Agri,
7. Krushna Namdeo Mohare
Age : 32 yrs, Occu : Agri,

Respondent Nos.4 to 7
R/o. At post Kolgaon,
Tq. Shrigonda, Dist. Ahmednagar

8. Sarjerao Ramchandra Mohare
Age : 50 yrs, Occu : Agri,
R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar
9. Atul Baban Barathe
Age : 45 yrs, Occu : Agri,
R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar
10. Sou. Shobha Sarjerao Mohare
Age : 45 yrs, Occu : Agri,
R/o. Ghargaon, Tq. Shrigonda,
Dist. Ahmednagar
11. Dilip Sopan Thite
Age : 35 yrs, Occu : Agri,
R/o. Ghargaon, Tq. Shrigonda,
Dist. Ahmednagar
12. Sopan Vithoba Thite
Age : 60 yrs, Occu : Agri,
R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar
13. Ashok Dagadu Haral
Age : 50 yrs, Occu : Agri,
14. Dilip Dagdu Haral
Age : 45 yrs, Occu : Agri,
15. Eknath Antu Haral
Age : 65 yrs, Occu : Agri,
16. Yogesh Laxmanrao Lagad
Age : 50 yrs, Occu : Agri,
17. Akash Balasaheb Barathe
Age : 30 yrs, Occu : Agri,

18. Usha @ Kusum Balasaheb Barathe
Age : 50 yrs, Occu : Agri,
19. Dattatraya Sampat Kalaskar
Age : 47 yrs, Occu : Agri,
20. Vinayak Bajirao Sapate
Age : 40 yrs, Occu : Agri,
21. Suhas Sampat Kalaskar
Age : 35 yrs, Occu : Agri,
22. Sampat Sonba Kalaskar
Age : 70 yrs, Occu : Agri,
23. Hausabai Sampat Kalaskar
Age : 65 yrs, Occu : Agri,
24. Kailas Ganpat Kalaskar
Age : 38 yrs, Occu : Agri,

Respondent Nos.13 to 24
R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar

25. Kausabai Ganpat Kalaskar
Age : 68 yrs, Occu : Agri,
R/o. Tandali (Kashti)
Tq. Shrigonda, Dist. Ahmednagar
 26. Ganpat Sonba Kalaskar
Age : 68 yrs, Occu : Agri,
R/o. Kolgaon, Tq. Shrigonda,
Dist. Ahmednagar
 27. Ramdas Ganpat Kalaskar
Age : 40 yrs, Occu : Agri,
R/o. Tandali (Kashti)
Tq. Shrigonda, Dist. Ahmednagar
- .. Respondents.

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Advocate for Petitioners : Mr. V.P. Latange
AGP for Respondent – State : Mr. K.B. Jadhavar

Advocate for Respondent Nos.4 to 7 : Mr. V.P. Narwade

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CORAM : SANDEEP V. MARNE, J.

DATE : 15-11-2022

ORAL JUDGMENT :

. Rule. It is made returnable forthwith. Mr. K.B. Jadhavar, learned AGP waives service for the respondent - State and Mr. V.P. Narwade, learned advocate waives service for respondent Nos.4 to 7. At the joint request of the parties, the matter is heard finally at the admission stage.

2. By the present petition, the petitioner has challenged the order dated 31.12.2021 passed by the Sub Divisional Officer, Shrigonda Division, Ahmednagar passed in Revision Application No.170 of 2020 thereby confirming the order dated 07.08.2020 passed by the Tahsildar Shrigonda under Section 5 of the Mamlatdars' Courts Act.

3. Even though the detailed submissions are made by the learned counsel for the petitioner and the respondents, I find that the petitioners were not granted proper opportunity of hearing at the time of decision of the proceedings before the Tahsildar. I have perused the original records of the case. The roznama shows that on

account of the absence of the plaintiff and the defendants on 18.03.2020, the proceedings were adjourned to 27.03.2020. Thereafter the roznama reflects the next date as 29.07.2020 when the plaintiff and their advocate were shown to be present and the defendants were shown as absent. The roznama does not reflect as to how the date of 29.07.2020 was fixed for hearing of the proceedings. However, the original record contains the notice dated 13.07.2020 fixing the date for final hearing of the proceedings as 29.07.2020. The records however, do not indicate that the said notice was served on the petitioners. On this count, apparently the petitioners did not remain present on 29.07.2020 when the proceedings were finally heard and the judgment was reserved.

4. In the aforestated manner, the order is passed by the Tahsildar without grant of proper opportunity of hearing to the petitioners. Though this aspect was highlighted in the revision petition filed before the Sub Divisional Officer, this aspect is completely ignored in the order dated 31.12.2021. Consequently, the orders passed by the Sub Divisional Officer and the Tahsildar are vitiated on account of non-compliance with the principles of natural justice. In the result, I proceed to pass the following order.

ORDER

(i) The order passed by the Tahsildar, Shrigonda dated 07.08.2020 in Wahiwat Case No.22 of 2019 and order dated 31.12.2021 passed by the Sub Divisional Officer, Shrigonda Division in Revision Application No.170 of 2020 are set aside.

(ii) The proceedings bearing Wahiwat Case No.22 of 2019 is restored on the file of Tahsildar, Shrigonda.

(iii) The Tahsildar, Shrigonda shall decide Wahiwat Case No.22 of 2019 afresh after granting full and complete opportunity of hearing to all the parties.

5. With these directions, the writ petition is partly allowed. Rule is partly made absolute.

(SANDEEP V. MARNE, J.)