

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 10394 OF 2022 IN
WRIT PETITION NO. 4599 OF 2022

Vishwanath Rakhmaji Shirsat
& others

Applicants

Versus

The State of Maharashtra
& others

Respondents

Mr. P. R. Nangare, Advocate for the applicants.
Mr. S. B. Pulkundwar, AGP for respondents No. 1 to 3.
Mr. S. R. Andhale, Advocate for petitioner in writ petition.

CORAM : M.G. Sewlikar, J.

DATE : 14th SEPTEMBER, 2022.

PER COURT :

1. Learned counsel for the applicants submits that the Tahsildar had granted path way. Revision was preferred by original plaintiffs (applicants herein) for getting cart way. This revision was allowed and cart way was granted to the plaintiffs (applicants herein). Against this order, the present application is filed.

2. Shri Andhale, learned counsel for the petitioner in main petition submits that appeal was preferred against the order of the

Tahsildar. Therefore, the order of granting cart way by the Sub-Divisional Officer is without jurisdiction.

3. Learned AGP has produced the record. It shows that infact revision was preferred and not appeal. Therefore, this objection of the petitioner does not survive.

4. While issuing notice, this Court had stayed the order of the Sub-Divisional Officer.

5. Applicants – original plaintiffs filed this application for vacating the stay. Learned counsel for the applicants submits that the issue as regards cartway can be considered at the time of final hearing of the writ petition. At present, applicants may be permitted to use the pathway.

6. Learned counsel for the defendants (respondents herein) has objection for the same. He submits that there is no evidence to show that there is path way.

7. Relief claimed by the applicants can be granted at this stage. Subject to the final outcome of this petition, applicants are permitted to use the disputed path way / motorcycle way as granted by the Tahsidlar, till the decision of this petition.

8. Civil application stands disposed of.

(M. G. SEWLIKAR)
Judge

dyb