

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

945 WRIT PETITION NO.7110 OF 2022

**RAJESH TATERAO LOMTE AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AND OTHERS**

...
Advocate for Petitioners : Mr. Ranjit D. Gaikwad h/f Mr. Kawade Shrikant
G.

CORAM : MANGESH S. PATIL, J.
DATE : 12.07.2022.

PER COURT :

The petitioners are aggrieved by the concurrent orders passed by the two courts below refusing to grant temporary injunction.

2. The contesting respondent Nos. 4 and 5 claiming existence of a customary way, preferred a proceeding under Section 5 of the Mamlatdar Courts Act, 1906. It was allowed. The petitioners made an attempt to challenge it by preferring a revision under Section 23(2) of that Act. Having become unsuccessful, they have filed a suit arraying the Sub Divisional officer as also the other revenue officers and the contesting respondents with a prayer for perpetual injunction restraining the respondent Nos. 4 and 5 from obstructing their possession over the suit property and also seeking to set aside the orders passed by the Mamlatdar as also the Sub Divisional Officer in the proceedings under the Mamlatdar Courts Act.

3. I have heard the learned advocate for the petitioners and perused the papers.

4. As is mentioned herein above, there are concurrent findings of the

revenue authorities holding that indeed there exists a customary way which has been obstructed to and for removal of the obstruction. Faced with the situation and unsuccessful in persuading the revenue officers, by way of last resort the petitioners have filed the present suit and have put up a challenge to the legality of the orders passed by the revenue authorities under the Mamlatdar Courts Act.

5. In view of Section 26 of the Mamlatdar Courts Act, 1906, no such suit would be maintainable since the decision by the revenue authorities has reached finality.

6. Bearing in mind the limited scope of causing interference by this Court in exercise of the writ jurisdiction particularly when there are concurrent findings of the two courts below, the discretion that has been refused to be exercised by the trial court and confirmed by the lower appellate court, cannot be said to be exercised injudiciously. They have specifically referred to the observations and the conclusions by the revenue authorities in answering the issues regarding *prima facie* case, balance of convenience and irreparable loss.

7. I find no sufficient ground to cause any interference since both the orders cannot be said to be either perverse, arbitrary or capricious.

8. The Writ Petition is dismissed.

(MANGESH S. PATIL, J.)

mkd/-