

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

927 WRIT PETITION NO.10849 OF 2022

**DATTATRAY KERU KHOMANE
VERSUS
STATE OF MAHARASHTRA
THROUGH SECRETARY AND OTHERS**

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Advocate for Petitioner : Mr. M.K. Bhosale h/f. Mr. Ganesh S. Vitkar
AGP for Respondent – State : Mr. G.L. Deshpande

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CORAM : SANDEEP V. MARNE, J.

DATE : 19-10-2022

PER COURT :

. The petition is completely misconceived. The Tahsildar passed order under Section 5 (2) of the Mamlatdars' Courts Act, 1906 on 10.08.2021 granting right of way to the plaintiffs before it. Aggrieved by the order of the Mamlatdar, the petitioner filed revision before the Sub Divisional Officer, who was pleased to partly allow the same and remanded the case for fresh enquiry before Tahsildar by order dated 11.01.2022. The petitioner did not immediately challenge the remand order, but participated in the proceedings before the Tahsildar by attending various dates of hearing. It appears that the plaintiffs before Tahsildar (respondents herein) have sought to file amended plaint to which the petitioner has filed his objections. Having participated in the proceedings after remand before Tahsildar,

the petitioner cannot take a volt-face and file the present petition challenging the remand order.

2. So far as the petitioner's prayer for decision on amendment application filed by the respondent nos.4 to 8 and 10 and 11 is concerned, the petitioner has admittedly opposed that application. It is incomprehensible as to why the petitioner is seeking decision on the amendment application. If the amendment application is not allowed by any specific order, the matter will proceed on the basis of unamended plaint. The petition is gross abuse of process of law and the same deserves to be dismissed by imposition of costs. However, taking a lenient view in the matter, I am not imposing any costs.

3. Writ petition is dismissed. No costs.

(SANDEEP V. MARNE, J.)

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