

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

953 WRIT PETITION NO.11299 OF 2021

HARISH BHASKARRAO KADLAG
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. Jadhav Hanumant P.
AGP for the respondent – State : Mrs. V.N. Patil-Jadhav
Advocate for the respondent no. 5 : Mr. B.G. Sagade Patil
...

**CORAM : MANGESH S. PATIL &
SANDEEP V. MARNE, JJ.**

DATE : 4 OCTOBER 2022

PC :

Heard the learned advocate for the petitioner as also the learned advocate Mr. Sagade Patil for the contesting respondent no. 5.

2. It transpires that without there being any formal proceeding taken out by the respondent no. 5, either under the Mamlatdars' Courts Act, 1906 or the Maharashtra Land Revenue Code, the Tahsildar by the impugned communication has directed the Circle Officer to remove the obstruction allegedly created by the petitioner across the way.

3. The parties are unanimous that no proceeding under the Mamlatdars' Courts Act preceded before the impugned communication. If that be so, we are afraid, irrespective of the rights being claimed by the parties herein, the Tahsildar could not have directed the removal of

the obstruction on his own unless he was intending to exercise some power under the Maharashtra Land Revenue Code. Not even the principles of natural justice were followed by him.

4. Be that as it may. The parties are unanimous that status-quo can continue and respondent no. 5 is allowed to approach the Mamlatdar with a proper proceeding under section 5(2) of the Mamlatdars' Courts Act.

5. At the joint request of the parties, we quash and set aside the impugned communication but direct the parties to maintain status-quo provided the respondent no. 5 takes out a proceeding under section 5(2) of the Mamlatdars' Courts Act within four weeks. If the proceedings are not taken out within the stipulated time, the order of status-quo shall stand vacated automatically. If the proceeding is filed in time, the status quo shall continue till it is decided by the Tehsildar.

6. Writ petition is disposed of.

[SANDEEP V. MARNE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/