

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

WRIT PETITION NO.23 OF 2019

**ATMARAM RAMDAS PATIL
VERSUS
RAMESH DEVRAM CHAUDHARI AND OTHERS**

...
Advocate for Petitioner : Mrs. S. N. Devmane (Munde) h/f
Mr. Girish V. Wani
AGP for Respondents – State : Mr. S. W. Munde
Advocate for Respondents No.1 : Mr. V. Y. Patil
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 11th JULY, 2022

PER COURT :

1. By this petition, filed under Article 227 of the Constitution of India, the petitioner has impugned the order passed by the Tahsildar, Pachora in Vahivat Application No.09/2016 filed by the respondent No.1 under Section 5(1)(2) of the Mamlatdars' Courts Act, 1906 (for short 'the said Act'). The said order was unsuccessfully challenged by the petitioner by filing Vahivat Revision No.83/2017, before the Sub Divisional Officer, Pachora.

2. Heard the learned advocate for petitioner, learned advocate for respondent No.1 and the learned Assistant Government Pleader for respondents – State. Perused the record.

3. It appears from the record that in the proceeding under

Section 5(1)(2) of the said Act, filed by respondent No.1, the issue for consideration before the Tahsildar was, whether the petitioner has caused obstruction to the brook. During the site inspection it was noticed that due to obstruction caused by the petitioner, the brook had become narrow. The same was recorded in the site inspection panchanama. Considering the site inspection panchanama and record, Tahsildar allowed the application filed by respondent No.1 and directed the petitioner to remove obstruction/encroachment and restore the original position of the brook.

4. The petitioner challenged the said order by filing revision before the Sub-Divisional Officer, who has dismissed the revision by confirming the order passed by the Tahsildar.

5. Having heard the learned advocates for the respective parties and the learned Assistant Government Pleader for respondents – State, and after going through the record, this Court is of the considered view that no case is made out by the petitioner to interfere in the concurrent finding of fact recorded by both the revenue authorities, which are supported by the record. The site inspection panchanama clearly depicts the encroachment on the part of the petitioner. The Tahsildar was, therefore, justified in allowing the application filed by respondent No.1 and directing the petitioner to remove the encroachment, under Section 5(1)(2) of

the said Act. The said finding of fact is rightly upheld by the Sub-Divisional Officer. No case is made out by the petitioner to warrant interference in the concurrent findings of fact, under Article 227 of the Constitution of India. Writ petition being devoid of merits, is dismissed.

(NITIN B. SURYAWANSHI, J.)

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