

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

WRIT PETITION NO.458 OF 2019

Popat Shankar Jamdade & Anr.

... Petitioners

Versus

The State of Maharashtra Through
The Addl. Collector, Osmanabad & Ors.

... Respondents

...

Mr. S. S. Wakure, Advocate for the Petitioners
Mr. S. W. Munde, AGP for Respondents/State
Mr. S. B. Choudhary, Advocate for Respondent No.3

...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 7th September, 2022

PER COURT :-

1. Challenge by the petitioners is to the order passed by the Tahsildar, Osmanabad under Section 5 of the Mamlatdar Courts Act, 1906 (for short 'the said Act'), which is confirmed by the Additional Collector, Osmanabad in Revision No.2018/RTS/316.

2. I have given due consideration to the rival submissions made by the learned Advocate for the petitioner and the learned Advocate for respondent no.3 as well as the learned Assistant Government Pleader. Perused the original record made available by the learned Assistant Government Pleader and grounds raised in the writ petition and the reply filed by the respondent.

3. Perusal of the record indicates that the impugned order is passed by the Tahsildar without assigning any reason. Panchnama which is allegedly conducted by the Circle Officer and which is relied upon by the Tahsildar in the impugned order is dated 28-02-2018, whereas the plaint is filed by respondent no.3 before the Tahsildar on 22-03-2018.

4. In the impugned order, the Tahsildar has only reproduced respective contentions of the parties and has assigned no reason as to why he is allowing the plaint filed by respondent no.3. The respondent no.1 has failed to appreciate these aspects and has erroneously rejected the revision filed by the petitioners.

5. In view of the fact that unreasoned order is passed by the Tahsildar, the same cannot be sustained and therefore, the petition deserves to be allowed.

6. In the result, following order is passed;

ORDER

(i) The writ petition is allowed.

(ii) The impugned order passed by the Tahsildar, Osmanabad in Proceeding No.2018/Mahasul/Jama-2/Kavi-141, so also the impugned order passed by the Additional Collector, Osmanabad in Revision No.2018/RTS/316, are hereby quashed and set aside.

(iii) The matter is remanded back to the Tahsildar, Osmanabad for consideration afresh.

(iv) By issuing notices to the concerned parties and adjoining land owners, panchnama shall be conducted in the matter by the Tahsildar himself and then, after giving opportunity to the parties to lead their evidence, the matter shall be decided on merits.

(v) This exercise shall be conducted within a period of eight weeks from the date of receipt of writ of this order.

[NITIN B. SURYAWANSHI, J.]

Sameer