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

**CIVIL APPELLATE JURISDICTION**

**CIVIL WRIT PETITION NO. 6807 OF 2021**

**KISHOR R TAWDE**

**....PETITIONER**

**V/s.**

**THE STATE OF MAHARASHTRA THR THE .....RESPONDENTS  
HONORABLE MINISTER AND ORS**

Mr. R. A.Thorat Senior Advocate i/b Mr. S. P. Chavan Advocate for the  
Petitioner

Smt. V. S. Nimbalkar AGP for Respondent nos. 1 & 2

Mr. Pradeep D. Dalvi for Respondent nos. 3, 5 & 9

Mr. Rushikesh G. Patil for Respondent nos. 11 to 14

**CORAM : NITIN W. SAMBRE, J.**

**DATE: JULY 12, 2022.**

**P.C.:**

1) Impugned in the Petition is the order passed under Sub-Section 2 of Section 5 of Mamlatdars' Courts Act 1906 (Hereinafter referred to as 'the Act' for the sake of brevity) delivered on 13/07/2021.

2) Vide said impugned order, Mamlatdar has directed removal of wall which was creating impediment in the ingress and outgress from land Survey No. 574/1.

3) I am informed by counsel for Respondent Mr. Dalvi that the order is already given effect to by removing the wall and as such, Petition has rendered infructuous.

4) While questioning the aforesaid order, Mr. Thorat Senior counsel would urge that order impugned is contrary to the revenue record as the land Survey No. 574/1 and the wall constructed was already permitted to be converted to non agricultural use by an independent order of revenue authorities. According to him, in relation to land in question he holds Power of Attorney executed by Respondent before the Mamlatdar. He would invite attention of this Court to order of the Commissioner dated 04/04/2004 passed to the said effect.

5) He would urge that even if the order is given effect to, Petitioner had every intention to question the same before the Civil Court and the order impugned may not be considered adverse to the interest of the Petitioner.

6) Fact remains that Petitioner is not a party to the proceedings before the Mamlatdar in which claim of Respondents has led to the passing of the order impugned.

- 7) Proceedings before the Mamlatdar are trite in nature and are always subject to outcome of the proceedings before the Civil Court.
- 8) In view of above, if the Petitioner prefers a Civil Suit before competent Civil Court, Civil Court to decide the same without being influenced by the findings of the Mamlatdar recorded in the impugned order.
- 9) With above observations, Petition stands disposed of.

**[NITIN W. SAMBRE, J.]**

IRESH SIDDHARAM  
MASHAL

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SIDDHARAM MASHAL  
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