

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

63 WRIT PETITION NO.2845 OF 2022

**KISHOR HARICHANDRA SALUNKHE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr.Thorat Chandrakant R.
AGP for Respondent Nos. 1 & 2 State : Mr. K.B.Jadhavar
Advocate for Respondent No. 3 : Mr.Kale Yogesh D.
...

CORAM : KISHORE C. SANT, J.

DATE : 28.06.2023.

PER COURT :

1. Heard the learned Advocate for the parties. The petitioners are the original respondents in a case under Section 5 of the Mamlatdar's Act, against whom an order is passed initially by the Tahsildar, Vaijapur, directing the petitioners not to obstruct the cart way that goes to the field of respondent No. 3. Even the revision filed by the petitioners is also came to be dismissed.

2. The facts are that respondent No. 3 had filed an application before the Tahsildar, Vaijapur stating that the petitioners have obstructed the way which goes to his field Gut No.109, whereas, the Gut Number of the petitioners is 57. The road lies from the land between Gut No. 106 and Gut No. 57. An

objection was raised about the form of the application which was filed. The respondents, therefore, filed an application in proper form and affidavit on 01.10.2018. Before that even a panchanama was drawn on 12.06.2018, in which it is recorded that the petitioners had stated that they have never obstructed the way of the respondents. It was only stated that the road is not the cart way but is only a path way. The Tahsildar, on the basis of panchanama and on recording the statements was pleased to allow the application as stated above.

3. In the revision, the learned Dy. Collector, Aurangabad observed that the Tahsildar has rightly passed the order on the basis of panchanama drawn by visiting the spot personally. The learned Dy. Collector also found that no interference is required.

4. It is the submission of the learned Advocate for the petitioners that in the village map no such road is seen in existence. There is one land Gut No.105 in between the land Gut No. 57 of the petitioners and the land Gut No. 109 of respondent No. 3. He submits that this map itself makes it clear that there is no question of having any road for the access from his land, to go to the land Gut No. 109. He submits that the order is passed by the Tahsildar only because of the pressure by the Tahsildar and

respondent No. 3. Respondent No. 3 had given threat to the Tahsildar that he would go on hunger strike if no road is given to him. Thus, the orders are passed by considering extraneous circumstances.

5. The learned Advocate for respondent No. 3 submits that the learned Tahsildar while passing the order has rightly considered the panchanama and the statements. He submits that the map was drawn by visiting the location personally. There is nothing on record to show that the panchanama is not correctly drawn. He further points out that the petitioners have clearly accepted before the Tahsildar that there was a path way. Thus, there is certainly an access available to respondent No. 3. He submits that when both the authorities have concurrently held in his favour, on the facts, this Court need not caused interference.

6. The learned AGP for respondent Nos. 1 & 2 also supports the impugned order by submitting that both the authorities have rightly exercised the jurisdiction and have passed the orders.

7. Considering the arguments and the record, this Court finds that the Tahsildar had visited the spot and drawn the

panchanama. There is clear finding recorded in the said panchanama that there is a road in existence and only thereafter the orders have been passed. The learned Deputy Collector has also considered all the aspects involved in the matter and has passed the order. This Court finds that, no case is made out for calling interference at the hands of this Court.

8. Considering the above submissions and report, this Court finds that the Writ Petition deserves to be dismissed and the same is dismissed accordingly, with no order as to the costs.

9. Pending the Civil Applications, if any, shall stand disposed off.

(KISHORE C. SANT)
JUDGE

mahajansb/