

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 WRIT PETITION NO.2956 OF 2023

BHIMRAO SAHEBRAO SHELKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS DISTRICT COLLECTOR
AND OTHERS

...
Advocate for Petitioners : Mr. Ambetkar Arvind G
AGP for Respondents-State : Mr. P. G. Borade
Advocate for Respondent Nos.4 and 5 : Mr. A.B.Girase And Bolkar Y.B.

...
CORAM : ARUN R. PEDNEKER, J.
DATE : 16th March, 2023

PER COURT :

1. The proceedings arises out of an application filed under Section 5 of the Mamlatdar's Courts Act by the respondents for obstruction created by the petitioner Nos.1 and 2 on the existing pathway which connected the main road to the fields of the respondents. The said application was allowed by the Mamlatdar after considering the spot panchanama. Thereafter, the petitioner Nos.1 and 2 filed revision petition before the revisional authority and the same was also dismissed. Present writ petition is filed by the original respondents in the Section 5 application and so also by additional petitioner Nos.3 to 9, who were not parties to the original proceeding.

2. It is the contention of the petitioners that when they were not made parties to the original application by respondents No.3 to 9 and

that they are also the affected parties by virtue of the order passed by the Mamlatdar under Section 5 of the Mamlatdar's Courts Act.

3. Per contra, the learned Advocate appearing for the respondent Nos.4 and 5 submits that, the obstruction was caused by the petitioner Nos.1 and 2, as such, the petitioner Nos.1 and 2 were made parties to the original proceeding. In the course of the panchanama one of the family members of the added petitioners were also present. The learned Advocate for the respondents No.4 and 5 submits that the proceeding before the Mamlatdar's Court Act are summary in nature and never final, in view of the Section 22 of the Mamlatdar's Courts Act, and the same is subject to any decree or order passed by the Civil Court.

4. The concurrent orders are passed by the Mamlatdar's Court so also by the revisional authority based on the evidence on record. The petitioner Nos.1 and 2 is at liberty to prefer appropriate proceedings before the Civil Court by filing the suit for injunction and declaration or any other proceeding as may be available in law to claim their right over the land on which access is claimed by the original applicants. As regards respondent Nos.3 to 9, they may

take such remedy available to them in law.

5. In the event any civil suit being filed, the civil Court to decide the same on its own merits without being influenced by any part of order of this Court or the proceedings before the authority.

6. In view of the same, the present writ petition is disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.