

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

39 WRIT PETITION NO.5085 OF 2023

**LAXMAN ASARAM KALASKAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**

Mr.N.T. Tribhuvan, Advocate for the petitioners.
Mr.S.B. Pulkundwar, AGP for the respondent/State.
Mr.D.P. Palodkar, Advocate for respondent No.4.

**CORAM : KISHORE C. SANT, J.
DATED : 20.06.2023**

PC :-

01. Heard learned Advocates for the parties. The main grievance of the petitioner is that he had filed Revision Application on 23.11.2022. The first date was 01.12.2022 and on the same day the matter was reserved for judgment and the judgment was delivered on 03.02.2023. He submits that in fact on 23.11.2023, notice was issued to the respondents only for filing say on the stay application. The matter was therefore kept on 01.12.2022 only for hearing on the stay application. However, the Revision itself was reserved for order by the learned Revisional Authority. He submits that, therefore, the petitioner could not get proper opportunity of hearing.

02. The learned Advocate Mr. Palodkar opposes the petition saying that in-fact from the Roznama it is seen that written arguments were placed on record. From the Roznama it is further clear that the main matter itself was to be decided on merit. He further submits that there is no embargo on considering the matter for final disposal on the first date.

02. Considering the position it does appear that the matter was heard and taken up hurriedly. However, the judgment was given after two months. Proper opportunity should have been given to both the parties to place on record the material, if they wanted to produce and make proper submissions.

03. This Court, while issuing order, recorded that the petitioner would not obstruct respondent No.4 from using pathway/cart-way. The learned Advocate for the petitioner fairly submits that he will instruct his client not to create any obstacles in the use of way as allowed by the Tahsildar and confirmed by the Revisional Authority and prays for remand of the matter to the Revisional Authority. Hence, following order :-

ORDER

- (a) The writ petition is partly allowed.
- (b) The impugned judgment and order passed by the learned Sub-Divisional Officer, Paithan-Phulambri dated 03.02.2023 in 2022/MAG/ROR/CR is quashed and set aside.
- (c) The parties to appear before the learned Sub-Divisional Officer, Paithan-Phulambri on 03.07.2023 with documents on which the parties want to rely upon.
- (d) The learned Sub-Divisional Officer, Paithan-Phulambri to dispose off the Revision within three months thereafter.
- (e) The petitioners not to obstruct the way of respondent No.4 as per the statement made by their Lawyer and recorded by this Court on 03.05.2023.
- (f) The petition stands disposed off.

[KISHORE C. SANT, J.]