

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

935 WRIT PETITION NO.6500 OF 2022

**RAVINDRA VITTHAL PUJARI AND ANOTHER
VERSUS
PRADHAN DHONDIBA SURYAWANSHI AND OTHERS**

...
Advocate for Petitioners : Mr. N.D. Sonavane
AGP for Respondents 26 & 27 : Mrs. V.N. Patil-Jadhav
...

**CORAM : ARUN R. PEDNEKER, J.
DATED : 14/03/2023**

PER COURT :

1. Mr. N.D. Sonawane, learned counsel for the petitioners submits that all the respondents are served long back and none of the private respondents are appearing in the matter.
2. Mr. Sonawane, learned counsel for the petitioners submits that the application moved under section 5 of the Mamlatdars Courts Act is in the nature of suit and in the event such application is not filed as per requirement of section 7, process under section 8 onwards has to be followed and the applicant has to be given an opportunity to convert it into the suit. Thereafter, the further provisions of the Mamlatdars Courts Act needs to be followed.
3. In the instant case, the application filed is not in the nature of suit and the process contemplated under the Act is not followed. In view of the same, the learned counsel for the petitioners submits that this matter needs to be remanded back to the Mamlatdar.
4. Having examined the record and the application filed by the respondents, is not in the nature of the suit and the procedure as contemplated under the Act from section 8 onwards is not followed. The

plaint also needs to disclose the cause of action and the same has to be within limitation.

5. In view of the same, the application under section 5 is remanded back to the Tahsildar/Mamlatdars Court to be proceeded from the provisions under section 8 onwards. After receipt of this order, the Mamlatdar is directed to decide the application within a period of four months. The writ petition is disposed of accordingly.

[ARUN R. PEDNEKER J.]

ssc/