

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

30 WRIT PETITION NO.517 OF 2021

1. Vitthal Ramdas Patil ...PETITIONER

2. Padmabai Mansaram Patil

3. Shandaram Laxman Mahajan

4. Ramesh Atmaram Mahajan

5. Bhagwat Atmaram Mahajan

Versus

1. Girish Shivdas Mahajan ...RESPONDENTS

2. Shubam Shivdas Mahajan

3. Shobhabai Shivdas Mahajan

4. The Tahasildar, Erandol,
Tq. Erandol, Dist. Jalgaon

5. Sub-Divisional Officer, Erandol,
Tq. Erandol, Dist. Jalgaon

Mr. Mayur Salunke, Advocate h/f Mr. V. D. Salunke, Advocate for the petitioners

Mr. Ajay G. Talhar, Advocate for respondent Nos. 1 to 3

Mr. S. B. Pulkundwar, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 23rd JUNE, 2023

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1. After hearing the parties, this court finds that the learned Sub-Divisional Officer has set aside the order passed by the Tahasildar under Section 5 of the Mamlatdar Court Act only on the technical ground that the Tahasildar had not complied with the procedure under Sections 7, 8, 9 and 12 of the Mamlatdar Court Act. This court finds that if the learned Sub-Divisional Officer ascertained that compliance are not made by the Tahasildar while conducting trial of the suit, care be taken to see that the parties should not be deprived of its right to use way.

2. Learned advocate for the petitioners submits that in fact he has complied with section 7 of the Mamlatdars Court Act and has provided all the details in the suit. The suit was filed on affidavit and therefore there is no case that he has not complied with section 7 and objected to the observations made by the learned Sub-Divisional Officer.

3. Learned advocate Mr. Talhar opposes the petition even on the ground that non compliance of the section 19 of the Act submitting that the Mamlatdar has not decided the points which are required to be decided even under Section 19. It is clear from the submission of the respondents that Tahasildar has not complied with the procedure and therefore, his order was challenged.

4. Learned AGP supports the order passed by the learned Sub-Divisional Officer.

5. This court therefore, finds in the interest of justice that the petition can be disposed off by remanding the matter to Tahasildar, Erandol.

6. The order passed by the learned Sub-Divisional Officer dated 24-03-2020 in Revision Application No.56/2019 is quashed and set aside.

7. Learned Tahasildar, Erandol to give findings on the points by framing points as contemplated under Section 19 of the Act and decide the matter afresh.

8. The proceeding before the Tahasildar, Erandol is restored. The learned Tahasildar, Erandol to make endeavour to decide the matter within a period of three months from today.

9. The learned AGP to communicate the order to the learned Tahasildar, Erandol.

10. The petition stands disposed off in above terms.

[KISHORE C. SANT, J.]

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