

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

988 WRIT PETITION NO. 7913 OF 2022

BAPU RAICANDRA METE & OTHERS
VERSUS
THE SUB-DIVISIONAL OFFICER, SHRIGONDA & OTHERS

...

Advocate for the petitioners : Ms. Manjushri V. Narwade

AGP for Respondent-State : Mr.S.P.Tiwari

Advocate for Respondent nos.3 to 9 : Mr.P.B.Shirsath

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 10.01.2023

P.C. :

1] In a proceedings initiated by the Respondent nos. 3 to 9 under Section 5 of the Mamlatdar's Courts Act, direction was issued by the Tahsildar to remove obstruction and open access of the existing road from the petitioners' land to the respondents' land of 8 to 10 feet width and the same is confirmed by the learned Revisional Authority.

2] While issuing the notice, this Court, by order dated 20th December, 2022, has granted *status quo* on the basis of the undertaking given by the petitioners that the petitioners would keep four feet road (pathway) unobstructed from the lands Gat Nos.457, 461 and 463 to

the respondents. In view of the undertaking given by the petitioners the direction issued by the Mamlatdar / Tahsildar to remove obstruction of 8 to 10 feet wide road was stayed.

3] Today, it is brought to my notice that road (pathway) from the petitioners' land remained obstructed by the petitioners and the respondents were not able to use pathway also.

4] The learned counsel for the petitioners submits that there is no four feet road (pathway) available from the land of the petitioners in Gat Nos.457, 461 and 463 to the respondents.

5] The order passed by the Mamlatdar under Section 5 of the Mamlatdars Courts Act on the basis of spot panchanama and evidence on record has held that the existing road access of 8 to 10 feet width of respondents is blocked by the petitioners and the revisional authority has confirmed the same.

6] This Court in the case of **Raghu Narayan Dukre and others Vs. Gorakshnath s/o Mahadeo Nalkar & others** in Writ Petition No.9637 of 2022, decided on 18.01.2023 has observed that the proceedings initiated under the Mamlatdar's Courts Act are summary in nature and are never final. In view of Section 22 of the Mamlatdar's Courts Act, 1906, the orders passed under the Mamlatdar's Courts Act are subject to the outcome of the Civil Court's proceedings. Thus, any party to the proceedings under the Mamlatdar's Courts Act is always at liberty to approach the Civil Court for final adjudication of their property rights.

7] I do not see any illegality in the orders passed by the authorities below and also in view of the non-compliance of the interim order dated 20.12.2022 passed by this Court, no further indulgence can be shown to the petitioners and accordingly this Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE