

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

959 WRIT PETITION NO. 12819 OF 2018

VILAS VITTHAL UNDE & OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER SHRIRAMPUR & OTHERS

...
Advocate for the petitioners : Mr.V.V.Tarde
AGP for Respondent-State : Mr.N.T.Bhagat
Advocate for Respondent nos.3 to 9 : Mr.S.B.Kadu
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 10.10.2023

P.C. :

1] Heard the learned counsel for the petitioners. The learned counsel for the petitioners submits that in the instant case the respondent nos.3 to 9 have filed Rasta Case No.08/2023 for removal of obstructions from Gat Nos.1191/5, 1191/2, 1191/1, 1191/3, 1191/4, 1190/2 and 1190/1 as the road is held to be passing through the field of the petitioners. The road was alleged to be obstructed by the petitioners as such the application was filed under Section 5 of the Mamlatdar Courts Act for removal of the

obstructions. The Mamlatdar, after conducting spot inspection, allowed the Rasta Case and directed the petitioners to open up the obstructed road. Thereafter, the aforesaid order was challenged before the Sub Divisional Officer under Section 23 (2) of the Mamlatdar Courts Act by filing Revision Application. The Revisional Authority also dismissed the revision filed by the petitioners. Against the said order, the present Writ Petition is filed.

2] The contention of the petitioners is that the spot panchanama was not prepared in presence of the petitioners and adjacent land owners. There is no dispute that there is existing road, however, it appears that some of the branches of the trees are growing up on the road side and the branches of the trees are obstructing the road.

3] In view of the same, the Tahsildar has directed for opening up the road and that the direction of the Tahsildar would mean that the branches of the trees will have to be trimmed to clear the obstructed road.

4] In view of the same, the Authority concerned is directed not to widen up the road further and that the road as existing should be maintained and cleared by trimming the branches and any other obstruction that may be on the road. If the parties are aggrieved by the order of the authority under the provisions of the Mamlatdar Courts Act, the parties are at liberty to file civil suit before the Civil Court and the order of the Civil Court would be binding upon the parties in view of Section 22 of the Mamlatdar Courts Act.

5] In view of the above, the present Writ Petition is disposed of with above liberty.

[ARUN R. PEDNEKER]
JUDGE

DDC