

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6363 OF 2022**

Nivrutti Narayan Deore and Ors.	...	Petitioners
versus		
Hiraman Kalu Sonwane and Ors.	...	Respondents

Mr. Sachin Gite, for Petitioner.
Mr. S.M.Sabrad, for Respondent Nos.1 to 4.
Mr. S.D.Rayrikar, AGP for Respondent Nos.5 and 6.

CORAM: N.J.JAMADAR, J.

DATE : 23 MARCH 2023

ORDER:

1. Heard the learned Counsel for the parties.
2. Rule. Rule made returnable forthwith. With the consent of the learned Counsel for the parties, heard finally at the stage of admission.
3. This Petition under Article 227 of the Constitution of India takes exception to an order dated 24 February 2022 passed by the Sub-Divisional Officer Chandwad, Dist. Nashik, in RTS/Revision/120 of 2021 under Section 23(2) of the Mamlatdars Court Act, 1906, whereby the Sub-Divisional Officer, Chandwad, allowed the Revision by setting aside the order dated 16 June 2021 passed by the Tahasildar, Chandwad in Vahiwat Case No.50 of 2020.
4. The Petitioners who are the holders of agricultural lands bearing Gat Nos.447/1A and 447/1B situated at Village Nimon, Tal. Chandwad, Dist. Nashik,

preferred Vahiwat Case before the Tahasildar Chandwad with the assertion that they were enjoying access to their lands through Gat Nos.448/1 and 448/2 owned by Respondent Nos.1 and 2. The said road has been used by the Petitioners and their family members since long. The road was in existence for more than 100 years. Apart from the said road, there was no other access to the land bearing Gat Nos.447/1A and 447/1B.

5. Respondent Nos.1 and 2 on 21 May 2020 destroyed the said road and with an oblique motive to wipe out its traces cultivated the road. Hence, the Petitioners were constrained to approach the Tahasildar, Chandwad. Accordingly, spot inspection was conducted and a panchanama was drawn.

6. After appraisal of the contentions of the parties and the contents of the panchanama, Tahasildar, Chandwad, was persuaded to pass an order on 16 June 2021 and allowed the application. Respondent Nos.1, 2 and 3 were directed to remove the obstruction and also perpetually restrained from causing obstruction to the Petitioners' access to their lands through the said road.

7. Being aggrieved, Respondent Nos.1 and 2 preferred a Revision before the Sub-Divisional Officer, Chandwad. By the impugned order, the Sub-Divisional Officer was persuaded to allow the Revision and set aside the order passed by the Tahasildar, Chandwad.

8. The Sub-Divisional Officer found that the inferences drawn by the

Tahasildar, Chandwad were not borne out by the spot inspection report. It was, inter alia, held that the Tahasildar, Chandwad, could not have allowed the Application on the premise that no alternative road was available.

9. Mr. Gite, learned Counsel for the Petitioners would urge that the aforesaid approach of the Sub-Divisional Officer is erroneous. When the Tahasildar had exercised the jurisdiction to remove the obstruction and clear the access on the basis of the spot inspection report, the Sub-Divisional Officer could not have interfered with a justifiable finding in exercise of revisional jurisdiction.

10. In opposition to this, Mr. Sabrad, learned Counsel for Respondent Nos.1 to 4 supported the impugned order. It was urged that the existence of the road does not find mention in any documents including the map of the Village Nimon.

11. I have perused the impugned orders passed by the authorities under the Mamlatdars Act, 1906 and the Spot Inspection Report. In my view, the Revisional Authority has rightly exercised the jurisdiction to correct the mistake the Tahasildar, Chandwad had fallen in. From the perusal of the rough sketch in the spot inspection report, it becomes abundantly clear that the agricultural land bearing Gut No.446 adjacent to the land bearing Gut No.447 of the Petitioners is similarly situated at the extreme end on the banks of Nagzari river/rivulet. The road claimed by the Petitioners is shown to pass right through the middle of the land bearing Gut Nos.448/1 and 448/2. A portion of the said road denoted by alphabet 'A' and 'B' was

shown to be in existence. Whereas, other portion denoted by alphabet 'B' to 'C' was shown to have been cultivated. The spot inspection report records that the alternate road from the banks of Nagzari river/rivulet was not suitable for access and/or non-existent.

12. This appears to be contrary to the situation borne out by the rough sketch in the spot inspection report. Number of lands bearing Gut Nos.459, 458, 457, 446 are shown to be situated on the banks of Nagzari river/rivulet. There is no explanation as to how the holders of those lands approach their lands, particularly the holders of the adjacent land bearing Gat No.446. It defies comprehension that even if access to the lands of the Petitioners was agreed to be provided through the lands of Respondent Nos.1 and 2, such access would be right through the middle of Gat Nos.448/1 and 448/2. It would ideally be over, and adjacent to, the boundaries of the said Gat numbers.

10. In the aforesaid view of the matter, the Revisional Authority was justified in setting aside the order passed by the Tahasildar, Chandwad, Nashik. No interference is warranted in exercise of extra-ordinary writ jurisdiction.

11. Hence, the Writ Petition stands dismissed.

12. No costs.

13. Rule discharged.

(N.J.JAMADAR, J.)