

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.10083 OF 2023

Medha Nitin Vaidya & Ors.	...Petitioners
Versus	
Jayvant Parshuram Naik & Ors.	...Respondents

Dr. Uday P. Warunjikar i/b. Mr. Sumit S. Kate, for the Petitioners.

Mr. Pankaj Thatte a/w. Mr. Nikhil Sonar, for Respondent No.1.

Mr. P. G. Sawant, AGP, for the State/Respondent Nos.2 to 3.

Mr. Anil Anturkar, Senior Advocate, Amicus Curiae.

Dr. Abhinav Chandrachud, Amicus Curiae.

CORAM : MADHAV J. JAMDAR, J.

DATED : 9th NOVEMBER 2023

PC. :

1. Heard Dr. Warunjikar, learned counsel appearing for the Petitioners, Mr. Pankaj Thatte, learned counsel appearing for Respondent No.1 and Mr. Sawant, learned AGP, appearing for Respondent Nos. 2 and 3.

2. I have also heard Mr. Anturkar, learned Senior Counsel and Dr. Abhinav Chandrachud, learned counsel as Amici Curiae, as one of the issue involved in the present Writ Petition is whether Mamlatdar has got power to issue interim injunction under the provisions of Mamlatdars' Courts Act, 1906.

3. However, after arguing the Writ Petition on few earlier occasions, both Dr. Warunjikar and Mr. Thatte, learned counsel appearing for the contesting parties state that the matter be remanded back to the Tahsildar, Alibag. Both the learned counsels state that there are several documents which are not pointed out to the Tahsildar, Alibag and therefore, the matter needs to be remanded back. Both the learned counsels state that no reasons be given for passing this order. Both the learned counsels state that Petitioner No.1 and Respondent No.1 are personally present in Court and on their instructions given on behalf of all the contesting parties, the above statements are made.

4. Accordingly, by consent of the parties, following order is passed:-

ORDER

- i. Order dated 14th July 2023 passed by the Tahsildar, Alibag in Vahivat Case No.7 of 2023 as well as order dated 21st July 2023 passed by the Sub Divisional Officer, Sub Division, Alibag, Dist. Raigad in Revision Appeal No.82 of 2023 are quashed and set aside.
- ii. Both the contesting parties are at liberty to file

additional affidavits enclosing additional documents before the Tahsildar, Alibag in said Vahivat Case No.7 of 2023. Both the parties are also at liberty to file written submissions.

iii. Learned Tahsildar is requested to dispose of the said Vahivat Case No.7 of 2023 on or before **31st January 2024.**

5. Dr. Warunjikar, learned counsel appearing for the Petitioners on instructions of the Petitioners states that without prejudice to their rights and contentions, the Petitioners will not object to the ingress and egress of the Respondent No.1. The said statement is accepted.

6. It is clarified that this Court has not considered the merits and all contentions of parties on merits are expressly kept open.

7. Accordingly, the Writ Petition is disposed of in above terms with no order as to costs.

8. In view of above order, this Court has no occasion to consider the above referred question of law. However, Mr. Anturkar, learned Senior Counsel and Dr. Abhinav Chandrachud, learned counsel both Amici Curiae have filed detailed submissions and also argued at

length. This Court places on record its appreciation for the valuable assistance rendered by Mr. Anturkar, learned Senior Counsel and Dr. Abhinav Chandrachud, learned counsel, who were appointed as Amici Curiae in this matter.

[MADHAV J. JAMDAR, J.]