

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.168 of 2022

Ravi S/O Narayan Pagrut And Another

Vs

Sub Divisional Officer, Akola And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.S. Shingane, Advocate for the Petitioner/s

Shri H.D. Dubey, AGP for the Respondent nos.1 and 2/State

Shri V.B. Bhise, Advocate for the Respondent Nos.3 to 10

CORAM : ANIL S. KILOR, J.

DATED : 01.08.2023

1. Heard.
2. The order passed by the Nayab Tahsildar (Revenue), Akola dated 13.07.2021, directing the present petitioners to remove obstruction on the approach way of the respondent Nos.3 to 10 and order passed by the Sub-Divisional Officer(SDO), Akola, upholding the order of the Nayab Tahsildar vide order dated 06.12.2021, are the subject matter in the present petition.
3. After going through the record, it appears that on 10.06.2021, first application was moved for removal of obstruction and thereafter, on 21.06.2021 another application was filed and again on 28.06.2021, third application was filed for the same relief by the respondent Nos.3 to 10 and some other persons.
4. The record shows that the first application dated 10.06.2021 was rejected on 22.06.2023 for non-compliance of Section 7 of

the Mamlatdars' Courts Act, 1906. However, the impugned order passed by the Nayab Tahsildar shows that it was passed below the application dated 10.06.2021. Similarly, in all three applications, some of the applicants are common.

5. In the first application no cause of action was shown, whereas, in the second application a vague statement was made in that respect and in the third application the cause of action was shown as 06.06.2021.

6. The Nayab Tahsildar vide impugned order though observed that he is deciding the first application dated 10.06.2021, however, the order bears number of registration given to the third application and the parties to the order as applicants are of the second application.

7. From the record, it appears that there is a complete mess committed by the Nayab Tahsildar in deciding the matter. Where the applicants in all the matter are not same except few, the pleadings are different, cause of action is different, the non-applicants must know which application the Nayab Tahsildar is going to decide, to meet the challenge made in that application.

8. In the present matter, as I have observed that there is a complete mess, in the circumstances, the present matter needs to be remanded back to the Tahsildar to decide the same afresh by giving sufficient opportunity to both the parties. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The order dated 13.07.2021 passed by the Nayab Tahsildar (Revenue), Akola and the order dated 06.12.2021 passed by SDO, Akola, are hereby quashed and set aside.
- (iii) The matter is remanded back to the Tahsildar (Revenue), Akola for deciding the same afresh, after giving sufficient opportunity to both the parties.
- (iv) The Tahsildar (Revenue), Akola shall first disclose to the non-applicants which application he is going to decide, as there are three applications on record and after disclosing the said fact and after seeking compliance, if necessary, under Section 7 and 12 of the Mamlatdars' Courts Act, the Tahsildar shall decide the application within two months from the date of appearances of the parties.
- (v) The parties shall appear before the Tahsildar (Revenue), Akola on **17.08.2023** at 11.00 a.m.
- (vi) Needless to mention that in view of statement made by the learned counsel for the respondent Nos.3 to 10 that, the alleged obstruction has already been removed and the respondent Nos.3 to 10 are using the approach way in question for their agricultural operation, the same

shall not be obstructed till final decision of the Tahsildar
(Revenue), Akola.

[ANIL S. KILOR, J.]