



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

Writ Petition (WP) No. 4094 of 2022

Suresh Wamanrao Sonone

Versus

Sub Divisional Officer, Tiosa, Amravati 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 N.A.Gawande, Advocate for the petitioner.

Shri N.R.Patil, AGP for the respondent nos. 1 and 2.

Ms. I.P.Khisti, Advocate for the respondent no.3.

CORAM : ANIL S. KILOR, J.

DATED : 25th SEPTEMBER, 2023.

Heard.

2. The order passed by the Sub Divisional Officer, Tiosa-Bhatkuli dated 17th June, 2022 rejecting the revision application and upholding the order of the Mamlatdar-Tehsildar dated 29th April, 2022, directing the petitioner to remove the alleged obstruction created in the approach way of the respondent no.3, is under challenge in this writ petition.

3. The challenge is raised on the only ground that while carrying out the spot inspection on which the

the Mamlatdar-Tehsildar has relied upon while allowing the application in favour of the respondent no.3, the petitioner was not served with any notice of such spot inspection and as such the petitioner was not present when the spot inspection was carried out.

4. The respondent no.3 is not disputing the said fact.

5. Thus, it is evident from the record that the spot inspection report on which the Mamlatdar-Tehsildar has relied upon while passing the adverse order against the petitioner, it was carried out behind the back of the petitioner without giving him any notice.

6. In that view of the matter, I am of the opinion that the matter needs to be remanded back to the Mamlatdar-Tehsildar for deciding the application filed by the petitioner under Section 5 of the Mamlatdar Courts Act, 1906, afresh. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The order dated 17th June, 2022 passed by the Sub-Divisional Officer, Tiosa-Bhatkuli and order dated 29th April, 2022 passed by the Mamlatdar-Tehsildar, Tiosa are hereby quashed and set aside;

iii. The matter is remanded back to the Mamlatdar-Tehsildar, Tiosa to decide the application filed by the respondent no.3 afresh after giving sufficient opportunity to both the parties;

iv. Both the parties shall appear before the Mamlatdar-Tehsildar, Tiosa on **11th October, 2023** at 12 noon. The Mamlatdar-Tehsildar, Tiosa shall decide the application within three months from the date of appearance of the parties.

[ANIL S. KILOR, J.]