

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

Writ Petition No.5126 of 2018

Sau. Charulata Vasatrao Autkar And Others Vs The State Of Maharashtra, Thr. The
District Collector, 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 K.B. Zinjarde, Advocate for the Petitioner/s
Shri D.P. Thakare, Addl.G.P. for the Respondent Nos.1 and 2/State
Shri N.S. Warulkar, Advocate for the respondent Nos.3 to 8

CORAM : ANIL S. KILOR, J.

DATED : 11.07.2023

1. Heard.
2. In this petition, the order dated 24.01.2017 passed by the Tahsildar, Akola, rejecting the application preferred by the petitioners for approach way and the order dated 26.04.2018 passed by the Additional Collector, Akola, confirming the order of Tahsildar, are under challenge.
3. From the record, it appears that numerous complaints were made by the various villagers for grant of approach way to their respective fields from the fields owned by the respondent Nos.3 to 8. Though the prayer made in the application appears to be made under Section 143 of the Maharashtra Land Revenue Code, 1960 (MLR Code), the Tahsildar entertained it under the provisions of the Mamlatdars' Courts Act, 1906 (for short "the Act of 1906").

4. The record further shows that even though the Tahsildar entertained the application made by the petitioners under the provisions of the Act, no compliance was made of the provisions of Sections 7 to 12 of the Act of 1906. The additional Collector has also failed to consider the above referred aspects and confirmed the order of the Tahsildar.

5. Thus, I am of the opinion that without going into the merits of the matter, as there is no compliance of Sections 7 to 12 of the Act of 1906 and as the Tahsildar has entertained the complaint/application of the petitioners under the provisions of the Act of 1906, the matter is required to be remanded back to the Tahsildar to decide the same afresh. Accordingly, I pass the following order:

(i) The writ petition is partly **allowed**.

(ii) The order dated 24.01.2017 passed by the Tahsildar, Akola and the order dated 26.04.2018 passed by the Additional Collector, Akola, are hereby quashed and set aside.

(iii) The Tahsildar, Akola is directed to decide the application of the petitioners afresh, after hearing both the parties.

(iv) The Tahsildar, Akola is directed to further consider the prayer and decide whether the application should be

entertained under the provisions of the Act of 1906 or under the provisions of the MLR Code, particularly, under section 143 of the MLR code. Accordingly, the Tahsildar shall give notice to the parties as regards under which provision he is going to entertain the application and decide the matter after seeking necessary compliance, as required under the appropriate law.

(v) Parties shall appear before the Tahsildar, Akola on **28.07.2023** at 11.00 a.m.

[ANIL S. KILOR, J.]