



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

Writ Petition No.5705 of 2022

**SAU. MAYA BANDU NILAWAR VS SUB-DIVISIONAL OFFICER, YAVATMAL
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.O. Ahmed, Advocate for the Petitioner/s

Shri N.R. Patil, AGP for the Respondent Nos.1 and 2/State.

Ms S.P. Agrawal, Advocate h/f Shri Maheshwari, Advocate for the respondent
No.3

CORAM : ANIL S. KILOR, J.

DATED : 27.09.2023

1. Heard.

2. In a proceeding filed under Section 5 of the Mamlatdar Courts' Act, the Tahsildar, Yavatmal carried out a spot inspection in absence of the petitioner and passed the order against the petitioner on 15.07.2021 and thereby, directed the petitioner to remove the alleged obstruction in the approach way of the respondent No.3. The said order was the subject matter of the challenge before the Sub-Divisional Officer (SDO), Yavatmal, who has upheld the order of the Naib Tahsildar, Yavatmal, vide order dated 12.05.2022. Hence, this petition.

3. The only argument made by the learned counsel for the petitioner is that, at the time of spot inspection, the petitioner was not present, even a notice was not served upon the petitioner in relation to the spot inspection.

4. It is submitted that the Naib Tahsildar, while passing the order against the petitioner, has placed reliance on such spot inspection. In the circumstances, the learned counsel for the petitioner prays for remand of the present matter.

5. The learned counsel for the respondent No.3 is not disputing the above referred fact.

6. In light of the above referred facts and circumstances, I am of the opinion that the matter needs to be remanded back to the learned Tahsildar, Yavatmal to decide the same afresh, after giving sufficient opportunity to the parties. Accordingly, I pass the following order:

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

(ii) The order dated 15.07.2021 passed by the Naib Tahsildar, Yavatmal and the order dated 12.05.2022 passed by the SDO, Yavatmal, are hereby quashed and set aside.

(iii) The matter is remanded back to the learned Tahsildar, Yavatmal for deciding the same afresh, after giving sufficient opportunity to the petitioner and the respondent No.3 to put their respective case.

(iv) It is made clear that the petitioner is at liberty to file written submissions, if she so desires.

(v) The Tahsildar, Yavatmal is directed to decide the application under Section 5 of the Mamlatdar Courts' Act within a period of three months from the date of appearance of the parties.

(vi) The parties shall appear before the Tahsildar, Yavatmal on **12.10.2023 at 12.00 noon**.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]