

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

WRIT PETITION NO. 5772 OF 2018

Vitthal S/o Nadmeo Aage
Aged about 65 Years, Occ.
Agriculturist
R/o Tembhi, Tq. Barshitakli, Dist.
Akola

...Petitioner

// VERSUS //

1. Vijaysingh Hirman Chavan
Aged about 36 Years, Occ.
Agriculturist
R/o Bhendimahal, Tq. Barshitakli, Dist.
Akola
2. Nabi Tahasildar,
Barshitakli, Dist. Akola
3. Additional Collector, Akola
Dist. Akola

... Respondents

Shri N.R.Tekade Advocate h/f Shri J.B.Gandi, Advocate for the petitioner.
Shri N.J.Jaiswal, Advocate for the respondent no. 1.
Ms. H.N.Jaipurkar, AGP for the respondent no.2 and 3.

CORAM : ANIL S. KILOR, J.

DATED : 7th FEBRUARY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith by consent of the parties.

2. In this writ petition, impugned order dated 29th June, 2017 passed by the Additional Collector, Akola rejecting the revision application challenging to the order dated 16th November, 2015 passed by

the Tehsildar directing the petitioner not to obstruct the approach way of the respondent no.1, is under challenge.

3. In this case, the respondent no.1 approached to the Tehsildar-Mamlatdar under Section 5 of the Mamlatdars' Courts Act, 1906 to direct the petitioner not to obstruct the approach way to his field from the field of the petitioner. The said application was allowed by the Tehsildar vide order dated 16th November, 2015.

4. Feeling aggrieved by the same, the petitioner has approached to the Additional Collector, Akola by way of a Revision Petition which came to be rejected vide impugned order dated 29th June, 2017.

5. Learned counsel for the petitioner has raised the only ground that, the Additional Collector, Akola though in the concluding paragraph has observed that he has perused all the documents, oral evidence, reports of the Talathi, the copy showing the spot, however, did not record a single reason and by accepting the findings recorded by the Tehsildar, the revision was rejected. He therefore, submits that, the order of the Additional Collector needs to be quashed and set aside.

6. Learned counsel for the respondent no.1 submits that the order is justifiable and sustainable in the eyes of law as the petitioner did not appear before the Additional Collector, Akola on the date when the order was passed.

7. Learned Assistant Government Pleader for the respondent nos. 2 and 3 though supports the impugned order, but does not dispute that the Additional Collector has not recorded a single findings while dismissing the revision application.

8. In the light of the submissions of the rival parties, I have perused the petition, documents filed along with the petition and the impugned order.

9. After going through the impugned order passed by the Additional Collector, Akola, it is evident that he has not recorded the single reason for rejecting the revision application. Thus, I have no hesitation to hold that the order suffers from principle of nature justice and for this reason, I am of the considered view that the matter needs to be remanded back to Additional Collector, Akola to decide the revision application. Accordingly, I pass the following order.

- i. The writ petition is partly allowed;
- ii. The impugned order dated 29th June, 2017 passed by the Additional Collector, Akola is hereby quashed and set aside.
- iii. The matter is remanded back to the Additional Collector to decide afresh after hearing both the parties.

[ANIL S. KILOR, J.]

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