



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 WRIT PETITION NO. 1577 OF 2024

Abhay Bajirao Salunke And Others

VERSUS

The State Of Maharashtra Through Its Secretary And
Others

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Advocate for the Petitioner : Mr. PR. Nangare

AGP for Respondents : Mr. A V Lavate

CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 08, 2024

PER COURT :-

1. Heard Mr. Prashant Nangare, learned advocate appearing for petitioners and learned AGP for respondent nos.1 and 2.

2. Mr. Nangare learned advocate appearing for petitioners submits that respondent nos.3 to 5 approached the Mamlatdar under section 5 of the Mamlatdars' Courts Act alleging that they are owners of land gat no.42/2 adjacent to the land of the petitioners. There was customary way from gat no.42/3 and 42/4 for approaching to the agricultural land from Bahirwadi Nevasa Shiv Road. However, petitioners have obstructed use of said road.

3. It appears that in pursuance of application submitted by respondent nos.3 to 6, Tahsildar caused spot inspection on 23.12.2022 and recorded position of the lands owned by respective parties and also existence of the customary way that reaches to Bahirvadi Nevasa Shiv road. Panchnama signed by five witnesses and supports contention of the respondents. Petitioners are coming with the case that respondents have alternate road. Therefore, they cannot claim any right to use the way from their land.

4. Mamlatdar, after considering material placed before him and, particularly, spot panchnama arrived at the conclusion that there was existing customary way that was used by the respondent nos.3 to 6 and also fact that petitioners have obstructed such use. Accordingly, allowed the application in exercise of jurisdiction under section 5 of the Act and directed removal of obstruction and also enjoined petitioners from obstructing the way. The Sub Divisional Officer in revision filed by petitioners concurred with the findings of facts recorded by the Tahsildar.

5. In that view of the matter, no jurisdictional error is pointed out requiring interference by this Court under Article 227 of the Constitution of India. Hence, writ petition stands **dismissed**. No costs.

(S. G. CHAPALGAONKAR)
JUDGE

aaa/-

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