



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3134 OF 2024

1. Sandeep Baburao Gorde,
Age : 53 Years, Occu. : Agri.,
R/o Astagaon, Tq. Rahata,
District Ahmednagar.
 2. Vijay Baburao Gorde,
Age : 52 Years, Occu. : Agri.,
R/o Astagaon, Tq. Rahata,
District Ahmednagar.
 3. Dr. Ravindra Baburao Gorde,
Age : 50 Years, Occu. : Service,
R/o Astagaon, Tq. Rahata,
District Ahmednagar.
- ... **Petitioners.**

Versus

1. The State of Maharashtra,
Through its Secretary,
Revenue Department,
Mantralaya, Mumbai-32.
 2. The Tahsildar, Rahata,
Tq. Rahata, Dist. Ahmednagar.
 3. Sub-Divisional Officer,
Shirdi, District Ahmednagar.
 4. The Circle Officer,
Astagaon, Tq. Rahata,
District Ahmednagar.
- ... **Respondents.**

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Advocate for Petitioners : Mr. Kale A. B.
AGP for Respondents-State : Mr. N. B. Patil.
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CORAM : S. G. MEHARE, J.
DATE : 28.03.2024

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. Learned AGP Mr. N. B. Patil states that his docket does not show anything about the case. On 20.03.2024, the learned AGP was also heard and interim orders were passed.
3. The grievance of the petitioners is that they have received the notice from the Circle Inspector, Astagaon, Taluka Rahata, dated 13.03.2024. The Circle Inspector given a date 21.03.2024 to open road through the fields.
4. The petitioners have a case that they were not served with the notice of case No.RTS/1117/2023. Without notice, The Tahsildar, Rahata has passed the order on 08.03.2023. The notice dated 13.03.2024 reveals that the decision was taken to clear the road under a special drive. However, today learned AGP has no instructions. It is apparent that before passing the order dated 08.03.2023, the Tahsildar did not call the petitioners and hear them. There is no complete information whether a special drive was for removal of encroachment or the action under the Mamlatdars' Courts Act. However, the facts reveals that the Tahsildar, Rahata passed the

order on 08.03.2023 and directed the Circle Inspector, Astagaon to clear the road whereby the rights of the petitioners are going to be affected. *Prima facie*, the petitioners have a good case and the writ petition deserves to be allowed. Hence, the following order :

ORDER

- (i) The writ petition is allowed.
- (ii) The order of the Tahsildar, Rahata passed in case No.Kavi/RTS/1117/2023, dated 08.03.2023 is quashed and set aside to the extent of the petitioners only.
- (iii) The Tahsildar, Rahata should give opportunity of hearing to the petitioners in the above matter and decide the matter on merit.
- (iv) The petitioners should appear before the Tahsildar, Rahata on 10.04.2024 at 11.00 a.m.
- (v) On their appearance, the Tahsildar should furnish all the case papers to the petitioners, so they may be able to file their reply and then decide the matter within two months thereafter.
- (vi) Rule made absolute in the above terms.

(S. G. MEHARE, J.)

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