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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7857 OF 2021

RAVINDRA SHRAVAN PATIL

....Petitioner

VERSUS

THE SUB DIVISIONAL OFFICER AND OTHERS

.....Respondent

.....

Advocate for the Petitioner : Mr. Harshal Prakash Randhir

AGP for Respondents: Mr. K.S. Hoke Patil.

Advocate for respondent Nos. 3 to 5 : Mr. S.P. Tiwari h/f. Mr. A.K. Tiwari.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 6th AUGUST, 2024.

ORDER :-

1. Petitioner approached the Mamlatdar/Tahsildar, Bhadgaon under the provisions of the Mamlatdar Courts Act in Vahivat Case No. 23 of 2019, claiming that there is a customary way from Gat Nos. 318, 319, 320, 321 and 316(1).

2. In pursuance of the application of the petitioner, a spot panchanama was caused. It records that at the most a foot way was available and there is nothing to show that customary way as claimed by the petitioner was in existence. The panchanama records that there were residential houses on the part of the way claimed by the petitioner. The learned Tahsildar, recorded a finding that the petitioner could not prove the existence the customary way from Gat Nos. 318, 319, 320, 321 and

316(1). The petitioner approached the Sub Divisional Officer in Revision No. 53 of 2020. The learned SDO, concurred with the finding of fact recorded by Mamlatdar and upheld the defence of respondents that no such customary way was in existence. Although petitioner relied upon his own sale deed to contend that he was entitled to use the customary way as claimed. Perusal of the contents of the sale deed nowhere support the petitioners version regarding existence of the customary way. The petitioner could not bring any documentary evidence or oral evidence to suggest that the customary way was in existence and that has been obstructed by the respondents within six months prior to the institution of the proceeding under Section 5 of the Mamlatdar Courts Act.

3. Mr. Tiwari, learned advocate for respondents invited attention of this Court to the affidavit of the vendor of the petitioner namely, Pandit Dayatam Patil who clearly affirms on oath that no customary way was in existence as claimed by the petitioner.

4. In that view of the matter, the petitioner could not make out any case to remove obstruction under Section 5 of the Mamlatdar Courts Act. Consequently, there is no merit in the writ petition.

5. Writ petition is dismissed.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-