



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

929 WRIT PETITION NO. 6039 OF 2024

Punjaram Kisan Kavale

VERSUS

The Sub Divisional Officer Sub Division And Others

...

Advocate for Petitioner : Mr. Mulla Shabbeer Akbarbadshaha

AGP for Respondents : Mr. A.S. Shinde

Advocate for Respondent 3 : Mr. V B. Kulkarni

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : July 02, 2024

PER COURT :-

1. Petitioner impugns the order dated 18.4.2024 passed by the Sub Divisional Officer in RTS Revision No.2023/ROR/CR-77 by which the order passed by the Respondent no.2-Tahsildar granting way in favour of the petitioner has been set aside.

2. Learned advocate appearing for the petitioner submits that the petitioner had made an application dated 7.5.2021 to Tahsildar for grant of customary way from gat no.65 owned by respondent no.3. Accordingly, Tahsildar caused spot inspection through the Circle Officer. Report of such inspection was placed on record, wherein it is noted that there is existing pathway. Based on such report, Tahsildar allowed the application granting cart way in favour of the petitioner. However, the Sub Divisional Officer –

respondent no.1 set aside the order. Therefore, he urges that the order passed by the Tahsildar be restored.

3. Per contra, learned advocate appearing for respondents submits that very report dated 7.7.2021 relied by the Tahsildar depicts that cart-way was not in existence as claimed by the petitioner. Therefore, respondent no.2/S.D.O. rightly exercised his revisional jurisdiction under the Mamlatdar's Courts Act and set aside the order.

4. Having considered the submissions advanced, it is apparent that a simple application was moved on behalf of the petitioner before the Tahsildar alleging obstruction at the hands of respondent no.3 to the use of the customary way. The Circle Officer, Jalna submitted his spot inspection report dated 7.7.2021 which clearly states about existence of pathway from gat no.64 and 65. Except this particular document, there is nothing on record to depict that any cart road was in existence and it was being used by the parties. Respondent no.1-S.D.O. has rightly observed that there is no evidence indicating existence of customary cart way and consequently set aside the order passed by the Mamlatdar. No fault can be found in the order passed by respondent no.1/Sub-Divisional Officer. Hence, there is no merit in this writ petition. Writ petition stands dismissed. No costs.

(S. G. CHAPALGAONKAR)
JUDGE