



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

38 WRIT PETITION NO. 6859 OF 2024

SANJAY TRIMBAK PATIL (DUDHGAONKAR)
VERSUS
AHOK MADHAV PURI AND OTHERS

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Advocate for the Petitioner : Mr. Raviprasad K. Ashtekar & Mr. V. G. Shelke.

Advocate for Respondent No.1 : Mr. Sanjay Eknathrao Sarode.

Advocate for Respondent No.3 : Ms. R. R. Tandale.

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CORAM : **KISHORE C. SANT, J.**

DATE : 07th October, 2024.

P.C.:

. Heard the learned counsel for the parties.

2 The grievance of the petitioner is that without making him a party, an application came to be filed under Section 5 of the Mamlatdar's Courts Act. The Tahsildar decided the said application and exercised powers under Section 143 of the Maharashtra Land Revenue Code and directed to give a road.

3 The petitioner, therefore, approached the learned Sub-Divisional Officer (SDO) specifically raising this ground. However, the said ground is not considered. He, thus, challenges the order passed by learned SDO. On going through the operative part of the order

passed by the Tahsildar, it is clear that the learned Tahsildar has exercised the powers available under Section 143 of the Code. Even the learned SDO has observed that the order is passed under Section 143 of the Code. About the ground of non-joining the petitioner as party, there is no discussion by the learned SDO. The learned SDO without considering this vital and material aspect has decided the revision.

4 Considering this aspect, this Court finds it necessary to remit Section 5 application to the Tahsildar, Osmanabad for deciding the said application afresh by adding the present petitioner as a party.

5 In view of the above, the writ petition is allowed in terms of prayer clause (B), which reads as under:-

“B) By issuing appropriate writ, order or directions in the like nature the order passed by respondent No.3 i.e. Tahsildar Osmanabad dated 29.10.2015 and same has been confirmed by the Sub- Divisional Officer, Osmanabad in Revision by it's order dated 05.09.2022 may kindly be quashed and set-aside.”

6 The matter is remitted to the Tahsildar. The learned Tahsildar shall decide Section 5 application afresh by adding the present petitioner as a party, as early as possible and in any case, within six months from the date of receipt of this order.

7 The learned Tahsildar to also keep in mind that the application is under Section 5 of the Mamlatdar's Courts Act and not under Section 143 of the Maharashtra Land Revenue Code.

[KISHORE C. SANT, J.]

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