



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

WRIT PETITION NO. 6895 OF 2024

GANGADHAR SHENPHAD BAWASKAR

VERSUS

DWARKABAI DAMODHAR LOKHANDE AND OTHERS

...

Mr. Umakant P. Giri, Advocate for the Petitioner.

Mr. A. V. Lavte, AGP for Respondents-State.

Mr. Sanket S. Kulkarni h/f Mr. U. M. Maske Patil, Advocate for
Respondent No.1.

...

CORAM : S. G. CHAPALGAONKAR, J.

DATED : 09th JULY, 2024.

P.C.:-

1. Heard the learned Advocates appearing for the respective parties.

2. The petitioner impugns the order dated 24.04.2024 passed by respondent no.3 as well as order dated 27.04.2023 passed by respondent no.2.

3. The respondent no.1 filed application under Section 5 of the Mamlatdar's Courts Act contending that the petitioner made an encroachment over the customary way, which goes from common Bandh of land bearing Gut No.547. In pursuance to the aforesaid application, spot panchanama dated 03.03.2023 and 22.07.2022 was conducted in presence of panchas by Tahsildar and Talathi. The contents of the panchanama dated 22.07.2022 depicts existence of customary way from common Bandh of Gut No.547, which is not disputed. However, the petitioner came with the case that the respondent no.1 has obstructed his way, which goes to the Gavthan, so he raised resistance to use the customary way as claimed by respondent no.1. In view of contents of panchanama,

the Mamlatdar recorded findings that the customary way as claimed by respondent no.1 has been obstructed by the petitioner and consequently, exercised powers under Section 5 of the Mamlatdar's Courts Act directing removal of obstruction and restrained petitioner from using the road. The Sub Divisional Officer in Revision filed by the petitioner under Section 23(2) of the Mamlatdar's Courts Act, concurred with the findings of the facts recorded by the Mamlatdar and confirmed the order dated 27.04.2023.

4. Mr. Giri, learned Advocate appearing for the petitioner submits that the respondent has unnecessarily obstructed petitioner's way that reach towards Gavthan. Further the respondent has alternate South-North way for his use, apart from disputed way from Bandh of Gut No.2 situated beside Gavthan.

5. From submissions advanced, it can be gathered that there is no dispute about the existence of customary way from the common Bandh of Gut No.547 and that has been blocked by the petitioner. In that view of the matter, the Mamlatdar is justified in exercising his jurisdiction and directing removal of obstruction.

6. No jurisdictional error is pointed out to interfere in the concurrent findings and decisions rendered by the Authorities. Hence, there is no merit in the Writ Petition and the same is dismissed.

(S. G. CHAPALGAONKAR)
JUDGE