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wp 9059.20.odt

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

WRIT PETITION NO. 9059 OF 2020

**BHIMRAJ DEVIDAS GHUGE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS.**

...

Mr.. Nikhil S. Jaju, Advocate for petitioners.
Mr. P.A. Bharad, Advocate for respondent Nos. 4 to 7 and 9 to 14.

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18TH JUNE, 2024.

ORDER :-

Not on board. Taken on board on mentioning.

2. In a proceeding initiated by respondent Nos. 1 to 11, under Section 5 of Mamlatdar Courts Act, 1906, seeking removal of obstruction in the customary way, an order was passed by Tahsildar granting altogether different customary way in favour of respondent Nos.4 to 14. The order was subjected to revision before the Sub Divisional Officer, who was pleased to confirm the order passed by the Tahsildar. The original defendants approached this Court by filing this petition under Article 227 of the Constitution of India.

3. During the pendency of this petition, parties have arrived at an amicable settlement and jotted down the terms of such settlement duly signed and verified by the parties . Parties are before this Court alongwith their advocates, who have identified them. The terms of

compromise are verified before the Section Officer of this Court. The terms of compromise are narrated in para.1 to 4, which read thus :-

“1. That, way claimed by respondent No.4 to 14, to the extent of way, which goes from Shevgaon Paithan State Highway, and further it goes from common band of western side of G.No. 572 and eastern side of G.No. 589, 590, 591 of village Ghotan Tq. : Shevgaon, dist. Ahmednagar. However, the learned Tahsildar by judgment and order dated 7.01.2020, had been pleased to allow the Rasta Caste No. 8 of 2018 filed by the respondents and granted altogether a different way, which was not prayed by the respondents in their application/suit, and same was and is not in existence, since beginning, this fact is not disputed by both petitioners and respondent no.4 to 14.

2. The respondent No.4 to 14, states that, the respondent 4 to 14, will use their own land to reach their respective lands i.e. to the south of land Gat No. 589, and will not interfere in possession of Gat No. 589.

3. That, petitioners and respondent no.4 to 14, further agrees that, the petitioners will given way, to the extent of way, which goes from Shevgaon Paithan State Highway, and further it goes from common band of western side of G.No. 572 & east side of G.No. 589, 590, 591, of village Ghotan, Tq. : Shevgaon, Dist. : Ahmednagar, as claimed by respondent no.4 to 14 and respondent no.4 to 14, will not claim any right, title or any sort of right over the way granted by Learned Tahsildar, Shevgaon and confirmed by

the Learned Sub-Divisional Officer, Pathardi Division, Pathardi.

4. *That, petitioners and respondent no.4 to 14, further agree and consents to set aside the judgment and order dated 7.01.2020, passed by the Learned Tahsildar, Shevgaon, in Rasta Case No. 8/2018, and confirmed by the judgment and order dated 8.12.2020, passed by the learned Sub-Divisional Officer, Pathardi in Revision Application No.13/2020, and it is further agreed by the petitioners to the extent of petitioners to give way, to the extent of way, which goes from Shevgaon Paithan State Highway, and further it goes from common hand of western side of G. No. 572 & eastern side of G.No. 589, 590, 591 of village Ghotan, Tq. : Shevgaon, Dist. : Ahmednagar, and in terms of above compromise writ petition be disposed off.”*

4. In view of the aforesaid settlement, the impugned orders are quashed and set aside. The order of the Mamlatdar shall be modified in terms of compromise stated above.

5. Writ petition stands disposed of.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-