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901wp11650.24

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

**901 WRIT PETITION NO.11650 OF 2024
UTTAM KHEMA KEDAR DIED AND OTHERS
VS
THE TAHASILDAR PATHARDI AND OTHERS**

Mr. B. N. Palwe, Advocate for the petitioner
Mr. Shaikh Ashraf Patel, Advocate h/f Mr. A. P. Avhad, Advocate
for the respondent Nos. 3,5,7 and 8

CORAM : KISHORE C. SANT, J.

DATE : 18th OCTOBER, 2024

P. C.

1. Heard the parties.
2. This writ petition arises out of the proceeding under Section 5 of the Mamlatdar Courts Act.
3. The respondents approached the Tahasildar, Pathardi by filing a suit under Section 5. The respondents are owners of Gut No. 286. Their way was obstructed by the petitioners owner of land Gut No. 155 and therefore prayer was made to remove the obstruction from the Gut No. 155 and allow the respondents

to use the way to go to their field.

4. The Tahasildar drawn a panchanama and map by visiting the spot. After going through the panchanama and submissions of both the parties, the learned Tahasildar directed the petitioners to remove the obstructions from the road and to allow the respondents to use the way by judgment and order dated 06-09-2023. The petitioners, therefore, approached the learned SDO by filing revision. The learned SDO, Pathardi after going through the record and after hearing, rejected the revision application bearing No.101/2023 and confirmed the order passed by the learned Tahasildar. The petitioners are therefore, approached before this court.

5. The learned advocate for the petitioner vehemently argued that there is no right way from Gut No. 152 and 155 of village Hatral for going to Land Gut No. 286, village Saidapur. There is alternative way to approach the land Gut No. 286. From the map it is pointed out that in fact the land Gut No. 286 is on

the main road and therefore respondents do not require any other road. He further submits that the learned Tahasildar though in panchanama specifically observed that because of wire fencing there was no road, still has passed the order directing to allow use of the way by the respondents. He prays for quashing and setting aside the said orders.

6. The learned advocate for the respondents vehemently opposed the revision. He submits that both the authorities have concurrently held in favour of the respondent Nos. 3 to 8. There is no scope for interference in the findings of facts. No perversity is pointed out in the impugned judgment. He thus, prayed for rejection of the revision.

7. The learned AGP also supports the impugned judgment and order.

8. This court has considered the panchanama. The panchanama clearly shows that the road is blocked by raising

wife fencing. This panchanama was justified even by the petitioners by specifically stating before the learned Tahasildar. However, before the divisional Authority the petitioners have taken a ground that the map and the panchanama are wrongly drawn. However, fact remains that though it is observed in the panchanama that there is no road it is clearly seen that it is because of wire fencing which was recently raised, the learned Tahasildar has thus rightly passed the order by considering the material on record and the panchanama. This court even does not find that the learned SDO has committed any error. When there is findings of fact which is concurrently recorded by the authorities this court hardly finds any reason caused to interference in the said impugned judgment and order. Nothing is brought on record that findings of fact recorded are perverse manner or without there being any record. Thus, this court finds that the petition deserves to be dismissed and same is hereby dismissed. No order as to costs.

[KISHORE C. SANT, J.]