

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3023 OF 2024

Popat Akaram Shinde And Ors.	...Petitioners
Versus	
Anil Ananda Chougule and Ors.	...Respondents

Mr. Ramesh V. Taur for the Petitioners.
Mr. P. G. Sawant, A.G.P for the Respondent – State.
Mr. Tukaram Shendge i/by Mr. Pratap Patil for the Respondents.

CORAM	:	AVINASH G. GHAROTE, J.
DATE	:	19th JULY 2024

P.C.:

1. Heard Mr. Ramesh Taur, learned counsel for the petitioners.
2. The petition question dated 19.12.2023 passed by the learned Sub Divisional Officer (S.D.O.) under Section 23(2) of the Mamlatdar Courts Act, 1906 by which the order dated 14.01.2022 by the Mamlatdar directing removal of the obstruction, to the way has been set aside.
3. Learned counsel for the petitioners taking exception to the order dated 19.12.2023, submits that since the way is in

existence, the removal of the obstruction as directed by the learned Mamlatdar was correct and ought not to have been interfered by the learned S.D.O. When a query was put to the learned counsel for the petitioners to point out any document under the Maharashtra Land Revenue Code (MLR Code), in which the existence of way was recorded in the revenue records, he fairly admits that there is no such document. All that is considered by the learned Mamlatdar is the Panchanama to hold, that the way was in existence. In my considered opinion, the existence of a way has to be decided on the basis of entries in the revenue records/plains/maps, maintained under the provision of the MLR Code, which are absent in this matter, on account of which, I am not inclined to interfere in the impugned order passed by the learned S.D.O. The petition is therefore dismissed.

4. Needless to say that this does not shut off the right of the petitioners, under Section 143 of the MLR Code, in case he satisfies Tahsildar of the necessity.

(AVINASH G. GHAROTE, J.)