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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

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WRIT PETITION NO.5443 OF 2024

Mallikarjun L. Birajdar

...Petitioner

V/s.

Kalavati G. Chikkalli

...Respondent

Mr.Pradeep Salgar for the Petitioner.

Mr.S.D. Rayrikar, AGP for the State - Respondent.

CORAM : AVINASH G. GHAROTE, J.

DATE : 19TH JUNE, 2024.

P.C. :-

1. The only ground raised by the learned counsel for the petitioner is that the application filed by respondent nos.1 and 2 under Mamlatdar's Courts Act was not within a period of 6 months and therefore, the same could not have been entertained by Mamlatdar, which has been allowed by the learned Mamlatdar by his order dated 1.1.2024 (page 51). It is therefore submitted that the application for stay filed by the present

petitioner before the learned SDO in revision ought to have been allowed on account of which the impugned order dated 13.3.2024 (page 68) is unsustainable in law.

2. A perusal of the application filed by respondent nos.1 and 2 (page 43) indicates a complaint regarding obstruction of the way to approach their land. A perusal of sections 8 and 9 of Mamlatdar's Courts Act, indicates that even informal petitions are to be treated as plaints and in case the plaint does not contain any of the particulars as specified in section 7, it is the duty of the Mamlatdar to examine the plaintiff on oath and ascertain from him, such of the particulars specified in section 7 as are not clearly and correctly stated in the plaint and to reduce the examination to writing in the form of an endorsement which shall be deemed to be part of the plaint. It is therefore apparent that even if there are discrepancies regarding the date on which the cause of action has arisen, as is the requirement of section 7 (d) of the MM Act, it is the duty of the Mamlatdar to get it so corrected by examining the plaintiff. Merely because the Mamlatdar has failed in his duty, that does not mean that the

plaint is required to be rejected or injunction can be granted on that ground. For failure of the duty of the Mamlatdar as contained in sections 8 and 9 of MM Act blame cannot be laid at the door step of the plaint, considering the level of ill-literacy in the villages. I therefore, do not see any reason to interfere in the impugned order passed by the Revisional Authority on the above ground.

3. The petition is therefore dismissed. No costs.

(AVINASH G. GHAROTE, J.)