

WRIT PETITION NO.12057 OF 2022

Tukaram Bhaskar Thombare & Ors ... Petitioners
V/s.
 Balasaheb Dattatray Patil & Ors ... Respondents

Mr. Sushant S. Prabhune, for Petitioner (Through V.C.)
Mr. R. S. Pawar, AGP, for State/Respondent Nos. 18 &
19.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 8, 2024

PC.:

1. The petitioners are challenging the order passed by the Revisional Authority under Section 23(2) of Mamlatdar's Courts Act, 1906 thereby confirming the order passed by the Tahasildar directing petitioner to remove obstruction over the road as alleged by the respondents which is used as a right way to approach their agricultural land.

2. The respondents approached the Tahasildar under Section 5 of the Mamlatdar's Courts Act, 1906 contending that the respondents wherein the need of access the road to approach their agricultural land. There was a meeting between the petitioners and respondents, and it was decided that, in consideration of

payment of Rs.5 lakh the petitioners shall allow respondents to use the road in dispute for access.

3. Accordingly, the respondents paid Rs.5 lakh to the petitioners by way of RTGS. The petitioners incurred expenses of Rs.2 lakh for the purpose of construction of road. The road was thereafter used for substantial period but in December 2019 the petitioners obstructed the road and, therefore, respondents filed police complaint against them and approached the Tahasildar.

4. The petitioners contended before the Tahasildar that road as alleges by the respondents is not in existence. The civil suit in relation to the said road is already pending.

5. The Tahasildar, on 27 July 2020 examined the disputed road by visiting site and prepared panchnama. Based on the said visit, he reported that the road has allowed by the petitioners was used by the respondents and the petitioners obstructed such road.

6. The Tahasildar based on said panchnama, the material produced by the respondents and the communication issued by Grievance Redressal Committee of Village recorded a finding of existence of road and it is obstructed by the petitioners. The Tahasildar also recorded a finding that the petitioners had allowed respondents to use the road to approach their agricultural purpose. Pendency of suit shall not preclude him from passing the order as the scope of the suit is not clear from the material on record.

7. The Revisional Authority considered the submission of both sides and recorded a finding that the petitioners had in fact

consented to allow the respondents to use the disputed road on payment of Rs.5 lakh. Such amount was paid by way of RTGS.

8. The finding recorded by the authorities below are based on material in the form of site inspection panchnama drawn by the Tahasildar, communication issued by Grievance Redressal Committee of Village. It is, therefore, clear that the finding of existence of road is based on material on record. This Court in extra ordinary constitutional jurisdiction under Article 227 of the Constitution of India is not expected to enter into sufficiency of material to arrive at satisfaction of the findings of the Courts authorities below about existence of road. Therefore, in absence of perversity, no interference in extraordinary constitutional jurisdiction is called for.

9. The writ petition is, therefore dismissed.

(AMIT BORKAR, J.)