

Nikita

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

WRIT PETITION NO.5960 OF 2024

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Parshuram Premraj Wable and Ors. ... Petitioners

V/s.

The State of Maharashtra and Ors. ... Respondents

Mr. Umesh Mankapure a/w Mr. Nilesh Wable, for the
Petitioner.

Mr. P. G. Sawant, AGP for the State-Respondent Nos. 1
to 5.

CORAM : AMIT BORKAR, J.

DATED : APRIL 30, 2024

P.C.:

1. On an application filed by Grampanchayat on the letter head of the Grampanchayat, the Tehsildar entertained the application and passed order dated 16th September 2021, directing Circle Officer to open the disputed road in existence. Prima facie, order dated 16th September 2021 was passed without giving opportunity of hearing to the petitioner.

2. Prima facie, the application which is required to be filed in a manner prescribed under the provisions of the Mamlatdars' Courts Act, 1906 does not fulfill the necessary ingredients. The Revisional Authority instead of remitting the proceedings back, confirmed the order observing that nimtana measurement is necessary provisions of the Act requires applicant to prove obstruction and to seek relief

enumerated under the provisions of the Act. Without there being Panchanama as required for ascertaining factual position, the authorities under the Act have exercised quasi judicial power without giving opportunity of hearing to the affected party.

3. Hence, issue notice to respondent No. 6 and 7, returnable on **9th July 2024.**

4. Till next date, there shall be ad-interim relief in terms of prayer clause (e).

(AMIT BORKAR, J.)