

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11380 OF 2024**

Vitthal Bandu Khapre

... Petitioner

versus

Ramchandra Shivram Khapre (since deceased)
through Legal Heirs and ors.

.... Respondents

Mr. Manoj A. Patil along with Mr. Shubham Dhenge and Mr. Akash M. Murudkar, Advocate for the Petitioner.

Ms. Vrushali Raje, AGP for Respondent No.3 and 4-State.

CORAM : R. M. JOSHI, J.

DATE : 21st AUGUST, 2024.

P.C. :

1. Learned counsel for the petitioner submits that proceeding under Section 5 of the Mamlatdar's Court Act 1906 was entertained beyond the period of limitation and also in ignorance of the fact that there were panchanamas drawn for years together indicating there being no existing road or user thereof. It is his submission that in complete ignorance of the provisions of the Act as well as the facts, Tahsildar passed order dated 13th October 2022. He makes a solemn statement that this order was stayed by the Sub-Divisional Officer during the pendency of the revision. The petitioner's revision is disposed of on 13th May 2024. A further statement is made that the order passed by the Tahasildar has not been executed till date. These statements are accepted.

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This order is corrected in view of speaking to order dated 26th August 2024. 1/2

3. In view of this, there would be stay to the order dated 13th October 2022 in proceeding of Remand Vahivat Case No.13 of 2021 till the next date of hearing.

4. Issue notice to the respondents returnable on 10th September 2024. In addition to usual mode of service, learned counsel for the petitioner is permitted to serve the respondents by private mode of service.

5. Ms. Raje, learned AGP, waives service on behalf of Respondent No.3 and 4-State.

(R. M. JOSHI, J.)