

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11503 OF 2024

Jagannath Namdeo Khatal & Ors. Petitioners

V/s.

Santosh Triambak Khatal & Ors. Respondents

Ms.Kalyani Mangave a/w Mr.Shubham Dhenge i/b Mr.Manoj A. Patil, for the Petitioners.

Mr.Vishal Tambat i/b Mr.Sagar Kasar, for Respondent Nos.1 and 2.

Mr.P.G. Sawant, AGP, for Respondent Nos.3 and 4-State.

CORAM : R.M. JOSHI, J.

DATE : 16th AUGUST 2024

P.C:-

. Not on board. Taken on board.

2. Heard.

3. The learned counsel for the Petitioner has drawn attention of this Court to the Roznama recorded by the Sub Divisional Officer, Chandwad in RTS Revision Application No.121 of 2022. According to her on 26th June 2023 the proceedings was closed for judgment. However, thereafter, the concerned SDO was transferred. Thereafter, proceeding was

never taken on board and all of sudden on 21st March 2024 it came to be taken on board when the contesting Respondents were present but no intimation was given to the Petitioner's herein. It is her contention that the manner in which the order is passed by SDO, creates suspension about the same. According to her in exercise of powers under Section 5 of the Mamlatdar's Court Act, 1906, Tahasildar passed order dated 14th June 2022 of direction to remove obstruction caused by the contesting Respondent to the way used by the Petitioner was over 100 years and this order is already implemented on 17th August 2022. In such circumstances order impugned deserves to be stayed as the same would cause prejudice to Petitioner.

4. The learned counsel for the contesting Respondents opposed contention of the Petitioner and has sought time to make submissions. He makes statement that no further action shall be taken on the basis of the order impugned.

5. Though such statement is made on behalf of contesting Respondents, *prima facie* consideration of material on record indicates that there is substance in the contention of the

counsel for the Petitioner that the order impugned has been passed under suspicious circumstances and certainly prejudice will cause to Petitioner if that order is not stayed. Petitioner therefore has made act arguable and strong *prima facie* case for stay of the same. Hence till further order, impugned order dated 4th July 2024 passed in RTS Revision Application No.121 of 2022 is hereby stayed.

6. Issue notice to the Respondents, returnable on 29th August 2024.

7. Mr.Vishal Tambat, waives service for Respondent Nos.1 and 2.

8. Mr.P.G. Sawant, learned AGP waives service for Respondent Nos.3 and 4.

9. Affidavit-in reply, if any, be filed before the next date of hearing by giving advance copy of the same to the counsel for the Petitioner.

(R.M. JOSHI, J.)