

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 12002 OF 2024**

Nitin Vijaykumar Chavan and Anr.

... Petitioners

Versus

Ghamanabai Fulsingh Chavan and Ors.

... Respondents

.....

Mr. Prasad B. Kulkarni, Advocate for the Petitioner.

Smt. V.R.Raje, AGP for the Respondent-State.

CORAM : R. M. JOSHI, J.**DATED : 26th AUGUST, 2024.****P.C. :****1.** Heard.

2. Learned counsel for the petitioners submits that application filed by the contesting respondent before the Tahasildar under Section 5 of Mamlatdar Courts Act does not spell out the cause of action. It is his submission that limitation period of six months has been provided within which such application needs to be filed and absence of cause of action does not satisfy requirements of Section 7 of the Act. According to him in such circumstances, it was obligatory on the part of Tahasildar to verify the said application and to make endorsement to that effect, which has not been done herein.

3. It is his submission that these issues were raised before the Tahasildar as well as before the Appellate Authority which are not

considered by them.

4. Apart from this, it is sought to be canvassed by referring to the order impugned that there exists alternate road for contesting respondent and as such, the Authorities have erred in passing orders impugned. It is claimed that notice has been received by the petitioners dated 22.07.2024 for execution of the said order. Today at 12:10 p.m. statement is made on instructions from one of the petitioners who is present before the Court that the order has not been executed till this time. The said statement is accepted.

5. Petitioners have made out arguable and prima facie case, hence, there would be stay to the impugned order as well as communication notice dated 22.07.2024 till the next date of hearing.

6. Issue notice to the respondents, returnable on **25th September, 2024.**

7. Smt. Raje, learned AGP, waives service of notice for respondent -State.

(R. M. JOSHI, J.)