



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.942/2024

Shri Suresh Shamrao Thote and others

...Versus...

Sub Divisional Officer, Umred, Tah. Umred, Dist. Nagpur and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. N.V. Lohe, Advocate for petitioners
Mr. A.V. Palshikar, AGP for respondent nos.1 and 2

CORAM : N.R. BORKAR, J.

DATE : 24/06/2024

1. It transpired during the course of hearing of the present petition that in relation to the dispute between the parties, the petitioners have already filed a civil suit.
2. Section 22 of the Mamlatdars' Courts Act, 1906 reads thus :

“22. Possession to be given without prejudice to rights of parties .- Subject to the provisions of Section 23, sub-section (2), the party in favour of whom the Mamlatdar issues an order for removal of an impediment or the party to whom, the Mamlatdar gives possession or restores a use, or in whose favour an injunction is granted, shall continue to have the surface water upon his land flow unimpeded on to adjacent land or continue in possession or use, as the case may be, until otherwise decreed or ordered, or until ousted, by a competent Civil Court] :

Provided, firstly, that nothing in this section shall prevent the party against whom the Mamlatdar's decision is passed from recovering by a suit in a competent Civil Court mesne profits for the time he has been kept out of possession of any property or out of enjoyment of any use :

Provided, secondly, that in any subsequent suit or other proceeding in any Civil Court between the same parties, or other persons claiming under them, the Mamlatdar's decision respecting the possession of any property or the enjoyment of any use or respecting the title to or valuation of any crop dealt with under the proviso to sub-section (1) of Section 21, shall not be held to be conclusive."

3. In view of the above Section 22 of the Act, there is no point in entertaining the present petition against the orders impugned and liberty is granted to challenge the same before the civil Court.

4. The writ petition is disposed of in the aforesaid terms. No order as to costs.

(N.R. BORKAR, J.)