



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

Writ Petition No.2918 of 2023

Vijay s/o Dattatraya Kade and anr. Vs. Deputy Collector, Murtijapur and others

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

Court's or Judge's Order

Shri Anup Dhore, Advocate for the Petitioner/s
Shri Gohokar, AGP for the Respondent Nos.1 to 3/State
Shri O.Y. Kashid, Advocate for the respondent Nos.5 to 7

CORAM : ANIL S. KILOR, J.
DATED : 27.02.2024

1. Heard.
2. This petition takes exception to the order dated 23.03.2023 passed by the Deputy Collector Murtizapur to the extent of clause (3) of the impugned order, whereby, the Deputy Collector has issued direction to the owners of Gat Nos.175, 160, 161, 165, 155 and 154 to remove obstruction in the approach way of the respondent Nos.5 to 7.
3. This matter pertains to Section 5 of the Mamlatdar's Courts Act, 1906, wherein the respondents Nos.5 to 7 approached the Tahsildar for grant of approach way, who rejected the application. Thereupon, a revision was filed under Section 23(2) of the Mamlatdar's Courts Act, 1906 before the Deputy Collector, who allowed the same and remanded the matter back to the Tahsildar for fresh decision. However, while remanding the matter to the Tahsildar for fresh decisions, certain directions were issued in clause (3) as referred above.

4. The only ground raised in this writ petition is that, the directions issued in clause (3), were issued behind the back of the owners of Gat Nos.161, 165, 155 and 154 as they were not party to the proceeding.

5. The learned counsel for the respondent is not disputing the fact that the owners of the said lands were not party. However, he submits that earlier the joint application was moved by them and subsequently, it was withdrawn.

6. Be that as it may, the fact remains that the owners of the above Gat numbers were not party while issuing the directions as stated in the clause (3) of the impugned order. In that view of the matter, the said order suffers from the principle of natural justice and it needs to be quashed and set aside.

7. Accordingly, the writ petition is partly **allowed**.

8. The order dated 23.03.2023 is hereby quashed and set aside to the extent of clause (3).

9. The respondent Nos. 5 to 7 are at liberty to move an appropriate application for claiming way through the above referred Gat Numbers, if they so desire.

[ANIL S. KILOR, J.]