



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

WRIT PETITION NO.5062 OF 2023

Ganesh Vasudev Chikte and another .Vs. Dy. Collector and S.D.O. Daryapur, Dist.
Amravati 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 K.P. Mahalle, Advocate for petitioners.

Ms M.A. Barabde, A.G.P. for respondent Nos.1 and 2/State.

Shri S.M. Vaishnav, Advocate for respondent Nos.3 to 9.

CORAM : ANIL S. KILOR, J.

DATED : 01/04/2024

1. The order passed by the Mamlatdar granting approached way to the respondent Nos.3 to 9 under Mamlatdars' Courts Act, 1906 (hereinafter referred to as "the said Act") vide order dated 21.10.2022 and maintaining the same by the Sub-Divisional Officer vide impugned order dated 28.02.2022, are the subject matter of challenge in this writ petition.

2. The only ground raised in this writ petition is that, to compliance of Section 7 of the said Act was not sought by the Tahsildar before proceeding in the matter.

3. In view of the said ground, the original record was called and on perusal of the same, I find substance in the submission of the learned counsel for the petitioners

that the Tahsildar has not sought compliance of Sections 7 to 12 of the said Act before proceeding in the matter.

4. This Court has observed that, the compliance of Section 7 of the said Act is mandatory. (*Gaurakshan Sansthan ..vs.. State of Maharashtra and others*, reported in 2019(3) ALL.M.R. 849)

5. In the circumstances, I am of the opinion that, this matter needs to be remanded back to the Mamlatdar to decide the same afresh after seeking compliance of Sections 7 of the said Act from the respondent Nos.3 to 9. Accordingly, I pass the following order :

- i) The writ petition is **partly allowed**.
- ii) The order dated 28.02.2023 passed by the Sub-Divisional Officer in MCA-05/Borala/08/2022-23 and order dated 21.10.2023 passed by the Tahsildar in MCA-05/Borala/01/2022-23, are hereby quashed and set aside.
- iii) The matter is remanded back to the Mamlatdar/Tahsildar to decide the same afresh

after seeking compliance of Section 7 of the said Act and after hearing both the parties.

- iv) Both the parties are directed to appear before the Mamlatdar/Tahsildar on **24.04.2024** at 12.00 noon.
- v) The Mamlatdar/Tahsildar shall decide the matter afresh within **three months** from the date of appearance of the parties.
- vi) In the meantime, the parties are directed to maintain status quo as on today.

Writ Petition is **disposed of** accordingly. No order as to costs.

JUDGE