



3779-2023

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

WRIT PETITION NO. 3779 OF 2023

(Pandurang Mahadeo Tarale & Ors. Vs. Sub-Divisional Officer, Akola & Ors.)

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

Court's or Judge's orders.

Shri Ram Karode, Counsel for the petitioners.
Ms K.P. Marpakwar, A.G.P. for respondent nos. 1 to 3.
Shri M.V. Bute, Counsel for respondent nos. 4 to 19.

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CORAM : ANIL L. PANSARE, J.
OCTOBER 3, 2024

Having heard both sides and having gone through the impugned order, it is evident that respondent nos. 4 to 19 had filed one page application before the Mamlatdar, which is not in consonance with Section 7 of the Mamlatdar's Courts Act, 1906 (the said Act). The order impugned doesn't indicate that the Mamlatdar has complied with the provisions under Sections 7, 8 and 9 of the said Act.

2] Section 7 provides that all the suits before the Mamlatdar shall commence by a plaint, which should contain particulars as noted in Section 7. Section 8 provides that if the petition is not in the form of the plaint and if the subject matter appears to fall within the scope of Section 5 of the said Act, the Mamlatdar shall explain to such person (in the present case respondent nos. 4 to 19 herein) the nature of reliefs afforded by this Act and shall enquire whether the petitioner desires to obtain relief thereof. Thereafter, the procedure as laid down under Section 9 is to be followed, which provides that the

Mamlatdar is under obligation to examine the petitioner on oath and to reduce the examination in writing and to proceed further. This procedure has been not followed in the present case and, therefore, the order impugned doesn't stand scrutiny of law. Further, the Sub-Divisional Officer without examining the aforesaid provisions has upheld the decision of the Mamlatdar.

3] Accordingly, the petition is partly allowed. Order dated 20/9/2022 passed by the Naib Tahsildar, Akola, in R.C. No. MCA-5/Apoti Bk. & Anakwdi/46/2022-23 so also order dated 24/5/2023 passed by the Sub-Divisional Officer, Akola, in R.C. No. MCA-23/Apoti Bk./04/2021-22, are quashed and set aside. The proceedings are relegated back to the Mamlatdar to consider it afresh in accordance with law and what has been stated in the body of the order.

4] The parties shall appear before the Mamlatdar on 21/10/2024.

(ANIL L. PANSARE, J.)

Sumit