



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

**Writ Petition No.4521 of 2023**

HANSRAJ S/O PUNDALIKRAO SONONE

VS

THE SUB DIVISIONAL OFFICER, AMRAVATI AND OTHERS

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

Court's or Judge's Order

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Shri T.U. Tathod, Advocate for the Petitioner/s

Ms Sangita Jachak, Addl.G.P. for the Respondent Nos.1 and 2/State

Shri S.B. Gandhe, Advocate for the respondent Nos.4 to 7

**CORAM : ANIL S. KILOR, J.**

**DATE : 10.04.2024**

1. Heard.

2. In this petition, the respondent Nos.4 to 7 preferred an application before the Tahsildar under section 5 of the Mamlatdars' Courts Act, 1906 (for short "the Act of 1906"), holding that the petitioner has obstructed their approach way to their respective fields. The said application came to be rejected and thereupon, the respondent Nos.4 to 7 filed the revision application before the Sub-Divisional Officer (SDO), who reversed the order of the Tahsildar and directed the petitioner to remove an encroachment and clear the approach way of the respondent Nos.4 to 7, vide order dated 30.06.2023. The same is under challenge in this writ petition.

3. The learned counsel for the petitioner argues that without recording any reason, the order of the Tashildar came to be reversed by the SDO. Whereas, the learned counsel for the

respondent Nos.4 to 7 points out that the SDO has relied upon the map filed by the petitioner and by relying upon the same, the order came to be passed.

4. I have perused the record and the impugned order.

5. From the record, it is evident that the Talathi visited the spot and prepared a report along with the spot map. If the map prepared by the Tahsildar is compared with the map filed by the petitioner, there is a major discrepancy, namely in the map filed by the petitioner, there is a tar road going through the middle of Gat No.23. Whereas, in the map prepared by the Tahsildar, there is no tar road shown.

6. Furthermore, though in the map prepared by the Tahsildar, the Pandhan road is shown, the same is missing in the map filed by the petitioner.

7. It is pertinent to note here that the Tahsildar rejected the application under Section 5 of the Act of 1906 on the ground that, a Pandhan road is available for the respondent nos.4 to 7. Whereas, the SDO has observed that there is no such Pandhan road.

8. In view of the discrepancies in the findings as well as in the maps, it is difficult to arrive at a definite conclusion that, which map is a correct one and whether there is any Pandhan road available or not for the respondent Nos.4 to 7 to approach their fields.

9. In the circumstances, I am of the opinion that it would be in the interest of the parties to refer the matter back to the Tahsildar to decide the matter afresh after drawing a fresh map and conducting the spot inspection afresh. Accordingly, I pass the following order:

- (i) The writ petition is partly **allowed**.
- (ii) The order of the SDO dated 30.06.2023 and the order passed by Naib Tahsildar dated 31.03.2022, are hereby quashed and set aside.
- (iii) The matter is remanded back to the Tahsildar, Amravati to decide the same afresh, after conducting spot inspection once again and preparing actual map.

Accordingly, the writ petition is disposed of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]