



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

WRIT PETITION NO.6258 OF 2024

(Rupam Manishsingh Bisen, thr. P.O.A. Manishsingh Arjunsing Bisen Vs. Naib Tahsildar,
Akola and others)

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

Court's or Judge's orders.

Mr. K. P. Mahalle, Advocate for Petitioner.
Ms. P. C. Bawankule, AGP for Respondent Nos.1 & 2/State.
Mr. S. K. Wankhade, Advocate for Respondent Nos.3 & 6.

CORAM: N. R. BORKAR, J.

DATE: 18th OCTOBER, 2024.

This petition takes exception to the order dated 30.09.2024 passed by respondent no. 2 – Sub Divisional Officer, Akola in revision MCA-23/Borgaonmanju/07/2023-2024.

2. The respondent nos.3 to 7 herein had filed an application under Section 5 of the Mamlatdars' Courts Act before respondent no.1 against the petitioner. It was alleged that on 23.06.2024, the petitioner who is their adjacent land owner with a view to compel them to sell their land to him at low price, obstructed their right of way by digging the only available road to them to approach to their field.

3. By order dated 04.07.2024, the respondent no.1 allowed the said application and directed removal of obstruction.

4. By the impugned order respondent no.2 – the Sub Divisional Officer has dismissed the revision application filed

by the present petitioner against the order of respondent no.1.

5. I have heard the learned counsel for the petitioner and the learned counsel for the contesting respondent.

6. The learned counsel for the petitioner submits that the respondent no.1 has passed the order in utter violation of the principles of natural justice. It is further submitted that the respondent no.1 had entertained and allowed the application by ignoring the mandate of Section 7 to 10 of the Mamlatdars' Courts Act. It is submitted that respondent no.2 has mechanically dismissed the revision against the order of respondent no.1. In support of submission that application can not be allowed without following the procedure provided under Sections 7 to 10 of the Mamlatdars' Courts Act, the learned counsel for the petitioner has relied upon the judgments of this Court in *Gaurakshan Sansthan, Murtizapur v. State of Maharashtra & Ors.* reported in *2019(3) ALL MR 849*, *Sudhir Yashwant Dhangade v. Ankush Kashiram Bole and Others* reported in *2019 SCC OnLine Bom 18* and *Sau. Lalita Dilip Khandalkar v. Additional Commissioner, Amravati & Ors.* reported in *2019(6) ALL MR 261*.

7. On the other hand, the learned counsel for the respondents submits that the present petitioner has purchased the land in question in the year 2021. It is submitted that there is reference of disputed road in the sale deed of the respondent nos.3 to 7 executed in the year 2005 and since then they are using the said road. It is submitted that the disputed road is the only road available to the respondent nos.3 to 7 to approach to their field.

8. I have perused the impugned orders and the spot inspection report dated 07.08.2023 submitted by the Talathi to respondent no.1.

9. During the spot inspection the petitioner has admitted his overt act of obstruction. However, according to him, he has done so because disputed road is not shown in the map. Admittedly, the petitioner has purchased the land in question in the year 2021. It is not the case of the petitioner that disputed road was not in existence prior to the year 2021 or that respondent nos.3 to 7 were not using the disputed road to approach to their field. In that view of the matter, I am not inclined to interfere in the impugned orders. The petition is dismissed.

(N. R. BORKAR, J.)