



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CONT. PETITION NO. 200 OF 2025
IN WP/6859/2024

Sanjay Trimbak Patil Dudhgaonkar

VERSUS

Ashok Madhav Puri

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Mr. R. K. Ashtekar, Advocate for the Petitioner

Mr. S. S. Dande, AGP for Respondent-State

Mr. P. B. Rakhunde, Advocate for Respondent no.1

Mr. J. J. Patil, Advocate for Respondent no.3

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CORAM : AJIT B. KADETHANKAR.

DATED : 16TH SEPTEMBER, 2025

ORDER :-

. Heard Mr. R. K. Ashtekar, learned Advocate for the petitioner, Mr. P. B. Rakhunde, learned Advocate for the respondent no.1 and Mr. J. J. Patil, learned Advocate for respondent no.3

2. By the order dated 07.10.2024 in Writ Petition No.6859 of 2024, this Court has remitted the matter to the Tahsildar and directed the petitioner to lodge his contempt proceedings.

The said clause No.6 is reproduced as follows:

6. The matter is remitted to the Tahsildar. The learned Tahsildar shall decide Section 5 application afresh by adding the present petitioner as a party, as early as possible and in any case, within six

months from the date of receipt of this Order.

3. It is apparent that the dispute under Section 5 of the Mamlatdar Courts Act, 1906 was relegated back to the concerned Tahsildar i.e. respondent no.2 in the present matter. It was the grievance of the present contempt petitioner in the Writ Petition that the proceedings were being carried out behind his back. However, the Writ Petition was filed which was decided in above terms. It was directed that respondent no.3 shall proceed with the proceeding under Section 5 of the Mamlatdar Courts Act, only by giving opportunity of hearing to the petitioner. This could have been done by adding him a party to the said proceeding, may be in any capacity. The whole purpose of the order is that the petitioner must get an opportunity of hearing in the said proceeding. By the later part of the order it was directed to the respondent no.3 to conclude the proceeding within six months from 07.10.2024.

4. Mr. J. J. Patil, representing the respondent no.3 submits that the respondent no.3 has filed her reply affidavit, whereby it is submitted that no proceedings under Section 5 of the

Mamlatdar Courts Act have been yet initiated by the respondent no.1 before her. He would further submit that the proceeding under Section 5 of the Mamlatdar Courts Act have to be submitted and prosecuted by the concerned applicant in due format. That, pursuant to the order passed by this Court, respondent no.3 has called upon respondent no.1 to lodge their application under Section 5 of the Mamlatdar Courts Act. Mr. Patil would further submit that till today, the respondent no.1 nor the original respondent nos.1 and 2 in the Writ Petition have approached the respondent no.3, pursuant to the order dated 07.10.2024 in Writ Petition No.6859 of 2024. He further submits that since the proceeding itself has not yet started, it would be incorrect allegation by the contempt petitioner that he is being kept out of the play i.e. any proceeding has concluded behind the back of the petitioner. Mr. Patil fairly submit that although, the later part of the order to conclude the proceeding within six months is in violation, but it could not be said to be a willful disobedience of any order passed by this Court. Delay is obviously caused by the parties at whose behest Section 5 proceedings were to be prosecuted. They have not approached the authority for

prosecuting the said proceedings. With this Mr. Patil submits that there is no willful disobedience of any order passed by this Court and that the contempt proceeding be dropped accordingly. He would further submit that any proceeding if initiated by the original respondent nos.1 and 2 or any other person recording or affecting the rights of the present contempt petitioner would not be taken up unless a due notice is given to the contempt petitioner.

5. Upon hearing rival contentions, it could be seen that the proceedings under Section 5 of the Mamlatdar Courts Act, which were relegated to respondent no.3 have neither yet started nor yet concluded within six months as was ordered. The justification that has come from respondent no.3 is that the parties at whose behest the proceeding should go themselves have not come forward to commence and continue the proceeding in accordance with law. Obviously unless any proceeding is prosecuted by such party, there could be no conclusion to such proceeding. The submission made by Mr. J. J. Patil, learned Advocate for the respondent no.3 is acceptable that unless a proceeding is started before the authority and unless some matter is before it, the authority

cannot expect to conclude it for want of the proceeding itself.

6. Mr. R. K. Ashtekar, learned Advocate for the petitioner insisted this Court to go through the page no.49 and 50 of the Contempt Petition compilation. These are the typed copies of some roznama or office record of the Tahsildar Office, Dharashiv. By showing this, Mr. R. K. Ashtekar urges that the respondent no.3 is making false statement and the respondent no.3 is in contempt. This submission is absolutely unacceptable for the reason that the record shows that the contempt petitioner himself has appeared before the Tahsildar together with his Advocate and has filed an application seeking time to file reply. As it is the matter of fact that the relegated proceeding has not even started by the concerned parties, the contempt petition itself is misconceived.

7. Mr. J. J. Patil, learned Advocate also adds that a proceeding under Section 5 of the Mamlatdar Courts Act cannot be initiated *suo-moto* by an authority in the absence of parties before it.

8. Mr. R. K. Ashtekar further submits that despite of these proceedings, the respondent no.1 has continued his ill activities of interfering into the possession of the petitioner for

construction of road. Needless to mention, this contention has no place in this Contempt Petition. The legal remedies as are available in law are always there to help the contempt petitioner in the circumstances, if so advised.

9. Hence, I pass following order.

ORDER

Contempt Petition stands dismissed with no orders as to costs.

(AJIT B. KADETHANKAR, J.)