



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 WRIT PETITION NO. 2179 OF 2023

ASHOK SHIVAJI SHINDE AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AND OTHERS

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Mr. Amol G. Vasmatkar – Advocate for Petitioners

Mr. R.B. Dhaware – AGP for Respondent Nos.1 to 3, State

Mr. Suresh P. Salgar h/f. Mr. A.R. Devakate – Advocate for Respondent Nos.4 and 5

Mr. R.D. Gaikwad – Advocate for Respondent Nos.6 and 7

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CORAM : SIDDHESHWAR S. THOMBRE, J.

DATE : 08.12.2025

PER COURT :

1. Heard learned Counsel for the respective parties.
2. By way of this petition, the petitioners challenge the order dated 09.03.2022 passed by the learned Sub-Divisional Officer, Kalamb, Dist. Osmanabad in File No.2022-ROR/CR-15, as well as the order dated 30.12.20221 passed by the learned Naib Tahsildar, Washi, Dist. Osmanabad in application bearing File No.2021/JAMA-01/RASTA/CR-29, whereby by exercising powers under Section 5 of the Mamlatdars Courts Act, 1906, the respondent was directed to clear the pathway so as to enable the agriculturist to use the same for agricultural purposes. The order of the Tahsildar came to be confirmed by the Sub-Divisional Officer.

3. Learned Counsel for the petitioners submits that, upon consideration of the matter, the learned authorities have declared the existence of a pathway which is beyond the scope of their powers under Section 5 of the Mamlatars Courts Act, 1906. They submits that the authorities ought not to have granted such relief in the absence of any supporting revenue record. They further submit that, there must be an entry in 7/12 extract and points out that there was an apparent error on the face of record while passing the orders under challenge.

4. Learned A.G.P for respondent Nos.1 to 3, State authorities submits that there was obstruction on the pathway and the Sub-Divisional Officer has rightly passed the order under challenge after considering the material on record.

5. I have gone through the orders passed by both the revenue authorities. Considering the scope of powers under Section 5 of the Mamlatdars Courts Act, 1906, the revenue authorities are empowered to remove obstruction from an existing pathway to enable agriculturist to reach their agricultural lands. In the present case, page No.41 of the petition contains a panchanama drawn by the revenue authorities. The authorities have merely permitted its user and removed obstruction. However, it is evident from the panchanama that the respondents were not permitted to use both sides of the pathway.

6. From the specific observation made in the panchanama, it is clear that the pathway was in existence and the authorities have rightly exercised their powers within the scope of Section 5 of the Mamalatdars Courts Act, 1906, to remove the obstruction thereon. Therefore, I do not find any reason to interfere with the order dated 09.03.2022 passed by the learned Sub-Divisional Officer, Kalamb, Dist. Osmanabad in File No.2022-ROR/CR-15, as well as the order dated 30.12.20221 passed by the learned Naib Tahsildar, Washi, Dist. Osmanabad in application bearing File No.2021/JAMA-01/RASTA/CR-29, under Article 227 of the Constitution of India.

7. In view thereof, the petition is dismissed. No order as to costs.

[SIDDHESHWAR S. THOMBRE]
JUDGE

Pooja Kale/