



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2988 OF 2016

Shilabai Vishnu Adhav And Another
VERSUS
Limba Dagdu Shelke And Others

WITH
WRIT PETITION NO. 2987 OF 2016

Bhagwan Ambadas Adhav And Another
VERSUS
Limba Dagdu Shelke And Others

- Mr. N. B. Narwade, Advocate for the Petitioners
- Mr. A. B. Girase, GP a/w Mr. S. N. Kendre, AGP for the Respondent Nos. 6 to 8/State

CORAM : R. M. JOSHI, J
DATE : AUGUST 22, 2025

COMMON ORDER :

1. These Petitions take exception to the orders passed by the Sub-Divisional Officer, Pathardi, Division Pathardi dated 23.12.2015 in R.T.S. Appeals Nos. 164/2013 & 230/2013 confirming the orders passed by the Tahsildar, Shevgaon, Dist. Ahmednagar dated 06.05.2012 & 05.03.2013 in Rasta Case Nos. 08/2012 & 30/2012 respectively.

2. Amongst other contentions, it is sought to be argued on behalf of the Petitioners that perusal of the

order indicates that there is complete non application of mind of the Authorities while passing said order. It is pointed out that in Rasta Case No. 08/2012, the suit was filed on 07.05.2012 whereas the spot panchnama is shown to have been conducted on 05.03.2012. It is his submission that even if it is accepted for the sake of argument that the date of spot panchnama is mentioned by mistake, he drew attention of the Court to order passed by the Tahsildar, which indicates that the spot panchnama is said to have been conducted on 06.05.2012 i.e., before the suit could be filed. In so far as Rasta Case No. 30/2012 is concerned, similar errors are committed by the Tahsildar. It is his submission that the Sub-Divisional Officer in spite of bringing these facts to his notice, has failed to cause interference in the order impugned before him.

3. Learned GP has placed on record original proceedings of both cases for perusal of the Court. The record indicates that spot panchnama allegedly conducted on 05.03.2012 was considered in both proceedings. Learned GP has fairly stated that this is a fit case for relegating the matters back to the

Tahsildar for the reason that there is complete non application of the mind.

4. Perusal of the original proceedings so also the impugned orders indicate that the spot panchnamas prior in time of filing of the suit are considered. Even if it is accepted for the sake of arguments that there was a mistake committed by the Tahsildar in regarding the date of spot panchnama to be 05.03.2012, even the orders impugned passed by Tahsildar indicates that there is total non application of mind while passing said orders.

5. Needless to say that the proceedings before Tahsildar at least *prima facie* decide the contention of the parties with regard to the customary way and its obstruction. Perusal of the record indicates that there was lack of seriousness on the part of the Tahsildar in conducting proceedings. It is expected from Tahsildar to conduct the said proceedings with utmost seriousness. Suffice it to say that such orders which are passed with total non application of mind cannot sustain. Hence, orders impugned deserves to be set aside. Accordingly, are set aside. Both Petitions stand

allowed in terms of prayer clause 'B' respectively.

6. Proceedings being Rasta Case Nos. 08/2012 & 30/2012 are relegated back to the Tahsildar, Shevgaon for decision afresh. Considering the fact that the proceedings are of year 2012, the Tahsildar is directed to decide the same within a period of a month from today. Parties are directed to appear before the Tahsildar on 02.09.2025.

7. Petitions stand disposed of in above terms.

(R. M. JOSHI, J.)