



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

960 WRIT PETITION NO. 4038 OF 2025

**KAVERI BALKRUSHNA GAVALI
VERSUS
THE SUB DIVISIONAL OFFICER VAIJAPUR & OTHERS**

...
Advocate for the petitioner : Mr.R.B.Gite
AGP for Respondent-State : Mr.R.D.Raut
Advocate for Respondent no.3 : Mr.Y.V.Bidve
Advocate for Respondent no.4 : Mr.A.C.Darandale
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 10.10.2025

P.C. :

1] Heard the learned counsel for the petitioner. By way of present writ petition, the petitioner is challenging the concurrent orders passed by the authorities i.e. order dated 13.12.2024 passed by the Sub-Divisional Officer, Vaijapur Division, Vaijapur in File No.2023/Revision Appln./MCA/23(2)/CR-18 and order dated 24.04.2023 passed by the Mamlatdar/Tahsildar in File No.2021/Jama-1 /Rasta/Kavi-478, granting right of way and directing the petitioner to remove the obstruction.

2] Findings on facts are recorded by the authorities in a proceeding of summary nature and based on the spot inspection. Considering that the findings are summary in nature, this Court under Article 226/227 of the Constitution of India would not re-examine the same i.e. concurrent findings of facts of the authorities below and accordingly the writ petition is disposed of with observations made below.

3] In view of Section 22 of the Mamlatdars Courts Act, any interim or final order passed by the authorities constituted under Mamlatdars' Courts Act would be subject to interim or final orders passed by the civil court qua the same subject matter. The order passed by the civil court in a civil suit qua the same subject matter would override the order passed by the authority under the Mamlatdars' Courts Act. Section 22 of the Mamlatdars' Courts Act in addition also provides that in the event any wrongful road has been granted to the applicant in a proceeding under Mamlatdars' Courts Act, the aggrieved side can claim mesne profits in

civil suit for the time he has been kept out of possession of any property or out of enjoyment of any of any user. The petitioners are at liberty to approach the civil court to seek such remedy as may be available in law by filing appropriate proceedings.

4] The learned counsel for the petitioners submits that in the event the impugned orders are implemented before filing of the civil suit, the proceedings before the civil court would be seriously hampered. Considering this submission, authorities constituted under the Mamlatdars' Courts Act shall not implement the impugned orders, if already not implemented, for the period of three weeks from today so as to enable to the petitioners to approach the civil Court.

5] Liberty is reserved to the respondents to approach this Court for recall of this order if they are aggrieved. It is made clear that the present order is not made on the merits of the matter and the same is made only to enable to petitioners to approach the civil court.

6] In the event, such civil proceeding is filed before the civil court qua the subject matter, the civil court would determine the same without being influenced by the observations made by this Court or by the authorities constituted under the Mamlatdars' Courts Act.

7] With the above observations, the Writ Petition is disposed of.

[ARUN R. PEDNEKER]
JUDGE

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