



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

WRIT PETITION NO. 5704 OF 2025

Gahininath Bhaulal Tekale And Another

.. Petitioners

Versus

The Sub Divisional Officer (Revenue) And Others

.. Respondents

Mr. Abhijit S. More, Advocate for the Petitioners.

Mr. K. S. Patil, AGP for Respondent Nos. 1 and 2.

Mr. S. S. Khoche, Advocate h/f Mr. S. S. Rathi, Advocate for respondent Nos. 3 and 4.

CORAM : KISHORE C. SANT, J.

DATED : 30th APRIL, 2025.

P C. :-

. Heard learned advocates for the parties. Taken up for final disposal by consent of the parties.

2. This petition is filed against an order passed by the learned S.D.O. dated 20.02.2025 allowing the revision application of respondent Nos. 3 and 4. The respondent Nos. 3 and 4 approached the learned Tahsildar, Paithan under Section 5 (2) of the Mamlatdars Courts Act. It is the case of the respondents that, the petitioners have blocked the road that goes through land Gat Nos. 70 and 71 of village Vadaji. The land of the respondents is Gat No. 76. It is further case that, there is road from the land Gat No. 71 owned by present

petitioner No. 1 and land Gat No. 75 owned by present petitioner No. 2. It is the case that, the said road is in use since long time. It is stated that, presently the road is blocked and thus, they prayed for removal of obstruction from the said road. The learned Tahsildar, Paithan conducted spot inspection and drawn panchanama. The learned Tahsildar concluded that, no road was found as alleged by the respondents and rejected the application by order dated 05.04.2023. The said order came to be challenged before the learned S.D.O., Paithan. The learned S.D.O., however, allowed the revision and has remanded the matter back to the learned Tahsildar. The petitioners are therefore before this Court.

3. The learned advocate for the petitioners vehemently argued that, the application of the respondents itself was not maintainable as the same is not in format. No cause of action is also given. He further submits that, in the panchanama it is clearly recorded that, no road was seen from land Gat Nos. 70 and 71. It is also recorded that, in land Gat No. 76 crops are seen of Cotton, Sweet Lemon and also two water farm ponds. It is on this the learned Tahsildar rejected the application. When this was the finding based on the spot inspection and panchanama, there is no reason for learned S.D.O. to interfere with the order and to remand the proceeding back to the learned Tahsildar.

4. The learned advocate for respondent Nos. 3 and 4 as well as learned A.G.P. supports the order. It is their submission that, the learned Tahsildar has not properly conducted the panchanama and the spot inspection. The learned S.D.O. has clearly observed that, the learned Tahsildar has not properly examined as to whether there was obstruction. It is stated that, earlier there was road when the land was dry land. However, thereafter now there is crop taken by the owner and it is for this reason the road was not available. He further rightly concluded that there was obstruction. They pray for rejection of the writ petition.

5. This Court has gone through the application, panchanama and the orders. From the application itself it is clearly seen that, there is no cause of action stated in the entire application. The wording shows that there was way to go to land Gat No. 76 since the ancestors, however, presently the road is blocked. No specific time is given of exact cause of action. Looking to Section 5 (2) of the Mamlatdars Courts Act it is for the applicant to file an application within six (06) months from the date of cause of action. When the date of cause of action itself is not stated in the application this Court finds that, the learned Tahsildar has rightly rejected the application. So far as panchanama is concerned, in both the panchanamas it has clearly

come that, there was no road seen on the spot. The wording that because of the crop no road is seen is only an inference as appearing from the panchanama. The learned S.D.O. has observed that, no specific panchanama is drawn. On going through the panchanama this Court finds that, the learned Tahsildar has, in fact, mentioned about the position of the road and has clearly recorded that, no road was seen. There are two panchanamas dated 14.09.2022 and 15.10.2023 . In none of the panchanamas the road is seen.

6. Considering all above this Court finds that, remanding the matter back would be of no use when in the application itself there is no sufficient averment about the cause of action. Considering the above, this Court finds that, the petitioners contention needs to be accepted.

7. In view of this, the writ petition stands allowed in terms of prayer clause (B).

8. The writ petition stands disposed of.

9. Needless to say that, parties are at liberty to avail the remedies available under law.

(KISHORE C. SANT, J.)

P.S.B.