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

916 WRIT PETITION NO. 6422 OF 2023

PARAJI SITARAM GHUGARKAR AND ANOTHER

....Petitioners

VERSUS

THE COLLECTOR AHMEDNAGAR AND OTHERS

.....Respondents

Mr. Ishwar K. Wagh, Advocate h/f Mr. K. M. More, Advocate for
the petitioners

Mr. S. P. Joshi, AGP for the respondents/State

CORAM : KISHORE C. SANT, J.

DATE : 22nd JANUARY, 2025

P. C.

1. Heard the parties.
2. The petition is taken up for disposal by consent of the parties.
3. The writ petition is arising out of the proceeding under Section 5(2) of the Mamlatdar Court Act. The present petitioners are the respondents before the Mamlatdar.

Respondent Nos. 4 to 7 are the applicants before the said authority. Respondent No.1 to 3 are the authorities of the State. The respondent Nos. 4 to 7 had approached the learned Tahasildar seeking relief of removal of obstruction caused by the present petitioners. The present petitioners are the owners of the land Gut No. 225/3/2 whereas the respondent Nos. 4 to 7 are the owners of the land Gut No. 225/3/1. The road is claimed from the land gut No. 225/3/2.

4. The learned Tahasildar visited the spot and drawn panchanama and map. On the basis of said report, he allowed the application filed by the respondents and directed the petitioners to remove the obstruction created on the Eastern side of Bandh of Land Gut No. 225/3/2 and Nortjern side of Bandh of the land Gut No. 225/3/3. The petitioners challenged the said judgment and order by filing a revision before the learned Sub-Divisional Officer. The learned SDO after going through the record and after hearing the parties was pleased to confirm the judgment of the learned Tahasildar by rejecting the revision

application. While deciding the proceeding the learned Tahasildar and learned SDO have considered the panchanama and the map. They also have considered the sale deed dated 05-08-2017 executed between the respondent Nos. 8 to 11. In the said sale deed there is reference of the present road. Right was given to the respondents to use this way.

5. It is the submission of the learned advocate for the petitioners that the sale deed of 2017 was between respondents themselves, wherein the petitioners were not party. Recital or the clause in the said sale deed would not bind the present petitioners. There is alternative road available to go to the land of the respondents. The observations of both the authorities is against the factual position. He further submits that in 1980 when the petitioners purchased the land, there was no reference of the said road. He submits that panchanama was also not properly drawn.

6. The learned advocate for the respondents and

learned AGP oppose the petition. They submit that both the authorities have concurrently held against the petitioners. No case is made out calling for interference in the said impugned judgments.

7. Considering the argument and the annextures to the petition, this court finds that both the parties have arrived at a finding of fact based on the material placed before them and on the basis of panchanam drawn in the presence of the Tahasildar. No perversity is pointed out in the finding of the fact. This court finds that in the exercise of the jurisdiction under Article 227 of the Constitution of India this court cannot go into the findings of fact unless it is pointed out to be perverse or without any material. Thus, this court finds that no case is made out to cause interference with the impugned judgments and orders.

8. The writ petition stands dismissed. No order as to costs.

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9. In view of dismissal of the writ petition, the civil application, if any stands disposed off.

[KISHORE C. SANT, J.]

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