



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

76 WRIT PETITION NO. 6658 OF 2024

1. Omprakash Waman Bagal
Age : 60 years, Occu : Agri
R/o Kakandi, Tq. & District: Nanded ...Petitioners

VERSUS

1. The State Of Maharashtra
though, the Collector Nanded
Dist. Nanded
2. The Sub-Divisional Officer Nanded,
Tq. & Dist. Nanded
3. The Tahsildar Nanded,
Tq & Dist. Nanded
4. Sadashiv s/o Waman Bagal
Age : 62 years, Occu : Agri,
5. Gangabai w/o Sadashiv Bagal
Age : 55 years, Occu : Household
6. Ananda s/o Waman Baga
Age : 50 years, Occu: Agri
All R/o Kakandi, Tq.& District Nanded ...Respondents

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Mr. Gopal D. Kale, Advocate for the Petitioner
Mr. V. S. Badakh, AGP for Respondent
M. S. S. Gangakhedkar, Advocate for Respondent Nos.4 & 5

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CORAM : ROHIT W. JOSHI, J.
DATE : 18th AUGUST, 2025

ORAL JUDGMENT :

1. The petitioner takes exception to order 15.09.2023 passed by the learned Sub Divisional Officer, Nanded rejecting the revision preferred

by him under Section 23(2) of the Mamlatdar's Courts Act, 1906 challenging order dated 17.02.2023 passed by the learned Tahsildar/Mamlatdar directing the petitioner to remove obstruction on the road passing along side Gut No. 209 from the Bandh/Dhura of the said field.

2. The learned Advocate for the petitioner contends that respondent nos.4 and 5 who have initiated the proceedings before the learned Mamlatdar have also filed a suit being Regular Civil Suit No.271 of 2020 in which an order of temporary injunction was sought against the present petitioner and other persons restraining them from obstructing the use of the said road. The application for temporary injunction in the said suit came to be rejected by the learned Trial Court vide order dated 05.07.2023. The learned Advocate contends that although the fact that the civil suit with respect to controversy pending before the Mamlatdar was brought to the notice of the learned Mamlatdar, yet the learned Mamlatdar has passed the order directing removal of obstruction vide order dated 17.02.2023. The learned Advocate for the petitioner contends that the revision is rejected by the learned Sub Divisional Officer vide order dated 15.09.2023 after the application for grant of temporary injunction was rejected by the learned Trial Court on 05.07.2023. He contends that it is a settled legal position that even

order of temporary injunction passed in the Civil Suit prevails over orders passed by authorities under the Mamlatdar Courts Act.

3. Mr. Gangakhedkar, the learned Advocate for the contesting private respondents contends that the order of temporary injunction is challenged in an appeal being Misc.Civil Suit No. 58 of 2023. He does not dispute the legal position that order of temporary injunction passed by competent Civil Court prevails over the orders passed by the authorities under the provisions of the Mamlatdar's Courts Act. He further contends that the order impugned is already executed and therefore, the *status quo* as today should not be disturbed till the final disposal of the appeal.

4. Mr. Kale, the learned Advocate for the petitioner contends that the orders are executed in utter disregard to the order passed by the learned Civil Court. He contends that the learned Appellate Court has not granted any stay to the order of temporary injunction passed by the learned Civil Court.

5. Having regard to the settled legal position that order of temporary injunction passed by a Civil Court prevails over the orders passed by authorities under the Mamlatdar's Courts Act, the impugned orders cannot be sustained and are liable to be quashed and set aside.

The petition is therefore **allowed** by quashing and setting aside orders dated 15.09.2023 passed by the learned Sub Divisional Officer, Nanded in Case No.2023/LND-10/WAY/Kakandi/CR-25 and judgement and order dated 17.02.2023 passed by the learned Mamlatdar/Tahsildar, Nanded in Case No.2021/Jama-2/RevenueCourt/Kakandi/way.

6. The parties have informed that hearing of Misc. Civil Suit No.58 of 2023 is scheduled on 04.09.2025. The learned Appellate Court is requested to decide the said appeal expeditiously and in any case before 30.09.2025.

[ROHIT W. JOSHI J.]