



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7835 OF 2025

Sunil s/o Murlidhar Dhawale and another

VERSUS

Raosaheb s/o Machindra Dhawale and others.

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Advocate for Petitioners : Mr. N.C. Garud

AGP For Respondent State : Mr. K.B. Jadhavar

Advocate for respondent : Ms. A.S. Jadhav

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : June 30, 2025

PER COURT :-

1. Not on board. Mentioned. Taken on board.
2. Petitioners impugns the notice dated 24.6.2025 issued by the Circle Officer, Arangaon, Tq. Jamkhed, District Ahmednagar, in pursuance to the decision/order dated 13.6.2025 passed by the learned Tahsildar, Jamkhed, in Rasta case no.6 of 2025.
3. Mr. Garud, learned counsel appearing for petitioners submits that respondent nos.1 and 2 instituted a proceedings before the Tahsildar, Jamkhed under section 143 of the Maharashtra Land Revenue Code (for short the Code) seeking new approach road for cultivating their field from gat nos.428, 438, 437, 431, 430 and 429. Petitioners are owners

of gat no.437. However, they were not made party. So without issuing any notice to petitioners, application submitted by the respondents is allowed vide order dated 13.6.2025 and directions are given for making way from gat no.438, 437, 431, 430 and 429. Mr. Garud submits that since petitioners are aggrieved by said order they have filed appeal before the Sub Divisional Officer, which is pending. Meanwhile, the impugned communication/notice dated 26.4.2025 is issued for execution of order passed by the Tahsildar. Therefore, petitioners have apprehension that tomorrow i.e. on 1.7.2025 new approach road would be created from their field.

4. Learned advocate appearing for respondent nos.1 and 2 submits that statutory appeal filed by petitioners is pending before the Sub-Divisional Officer, wherein appropriate application for stay of order can be made. However, instead of following aforesaid procedure, petitioners have filed present writ petition, which is not maintainable.

5. Considering the submissions advanced, it can be observed that learned Tahsildar exercised jurisdiction under section 143 of the Code and granted way to the respondent nos.1 and 2 from various gat numbers including gat no. 437

owned by the petitioners. It is trite that, if new access road is to be created under section 143 of the Code, all the land holders from whose field such road is to be granted, must be heard.

6. In the present case, apparently, petitioners were not made party and order is passed behind their back in gross violation of principles of natural justice. In this background, when petitioners have already filed appeal before the Sub Divisional Officer, it would be in the fitness of things to dispose of writ petition with following directions. Hence, order.

O R D E R

- i. Writ Petition is **partly allowed**.
- ii. The execution and operation of the impugned notice dated 24.6.2025 issued by the Circle Officer, Arangaon, Tq. Jamkhed, District Ahmednagar is quashed and set aside to the extent of petitioners.
- iii. The petitioners shall be at liberty to file appropriate application for stay of impugned order passed by the learned Tahsildar in pending appeal before the Sub Divisional Officer.

- iv. On presentation of such application, it be decided within a period of one month. **Till then**, the execution and implementation of the order dated 13.6.2025 passed by the learned Tahsildar, Jamkhed in Rasta Case No.6 of 2025 be kept in **abeyance** to the extent of petitioners land in gut no.437.
- v. The Sub Divisional Officer shall after hearing all the concerned, endeavor to decide the appeal within a period of three (3) months from the date of this order.
- vi. Writ Petition stands **disposed off**.
- vii. Learned AGP to communicate this order to the concerned authority forthwith.

(S. G. CHAPALGAONKAR)
Judge.

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