



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

WRIT PETITION NO. 8443 OF 2022

1. Yuvraj s/o Bapu Ingle,
Age: 33 years, Occ. Agril.
2. Smt. Bebibai w/o Bapu Ingle,
Age: 60 years, Occ. Agri.,

Both R/o Pisure Khand, Tq. Shrigonda,
Dist. Ahmednagar

.....PETITIONERS
(Orig. Respondents)

VERSUS

1. The Sub Divisional Officer,
Sub Division, Shrigonda-Parner,
Tq. Parner, Dist. Ahmednagar
2. The Tahsildar,
Tahsil Office, Shrigonda,
Tq. Shrigonda, Dist. Ahmednagar,
3. Shivaji s/o Bhoju Ingle,
(Died) Through L.Rs.

(Resp. No.3-Orig. Applicant)

- 3A. Dattatray Shivaji Ingle
Age-52, Occu. Agri.,
R/o. Pisure Khand, Tq. Shrigonda,
Dist. Ahmednagar.
- 3B. Shaila Anil Kate
Age-48 years, Occu. Agri.,
R/o. Dhombal Sangavi, Tq. Ashti,
Dist. Beed.
- 3C. Surekha Subhash Ithape
Age-42 years, Occu. Agri.,
R/o Kharatwadi, Tq. Shrigonda,
Dist. Ahmednagar.

3D. Aadika Balasaheb Ithape
Age:36 years, Occu. Agri.,
R/o Kharatwadi, Tq. Shrigonda,
Dist. Ahmednagar.
(Amendment carried out as per Hon'ble Court order
dated 18.06.2025.)

.....RESPONDENTS

Mr. R. R. Karpe, Advocate for the Petitioners
Mr. B. B. Bhise, AGP for Respondents-State
Mr. S. V. Deshmukh, Advocate for Respondent nos.3A to 3D
Mr. S. V. Suryawanshi, Advocate for Respondent no.3

CORAM : ROHIT W. JOSHI, J.

DATED : 10TH JULY, 2025

ORAL JUDGMENT :-

. The present petition arises out of a proceeding filed by the respondent no.3 under Section 5(2) of the Mamlatdars' Courts Act, 1906. The petitioners are non applicants in the said proceeding.

2. The respondent no.3 contended that land bearing Gut No.143 was a subject matter of suit for partition and separate possession in a suit, being Regular Civil Suit No.41 of 1984. His contention is that in the decree for partition, he had received portion in the said land towards northern side of Gut No.143 and land allotted to the share of petitioners is located

towards the south western side of the land which fell to the share of the respondent no.3. The contention of the respondent no.3 was that he had a right of way alongside the eastern bandh/dhura of the land of the petitioner. It is contended by him that a 12 feet wide road was agreed to be kept for access to the land of the respondent no.3 and this road was blocked by the petitioner. Both the authorities have held that the petitioners had blocked the said road. The Mamlatdar has ordered removal of obstruction and the revision preferred by the petitioners against the said order is rejected by the Sub Divisional Officer.

3. It is well settled that adjudication of a lis under the provisions of the Mamlatdars' Courts Act is not a final adjudication of respective rights. The proceedings before the Mamlatdar are of summary nature. The orders passed by Mamlatdar under the Act are subservient to orders and decrees to be passed by a Civil Court of competent jurisdiction. It is held by catena of judgments that orders passed in proceedings under Mamlatdars' Courts Act are always subject to any order or decree passed by a Civil Court.

4. In view of the consistent legal preposition with respect to alternate remedy of filing Civil Suit, in the considered opinion of this Court, it will not be appropriate to entertain the Writ Petition. The Writ Petition is accordingly **dismissed** with liberty to the petitioner to avail appropriate remedy before the Civil Court.

5. At this stage, learned Advocate for the petitioner states that for some reasonable period, interim protection may be directed so that the cause in the Civil Suit does not become infructuous.

6. Learned Counsel for the respondent no.3 opposes the request.

7. I have perused the reply filed by the petitioners before the learned Mamlatdar. Perusal of the reply will indicate that the petitioners did not have any objection for a part of the proposed road passing through their fields.

8. In that view of the matter, the respondent no.3 shall not execute the orders till 10.08.2025, subject to condition that the petitioner shall keep five feet road open through their

agricultural lands enabling the respondent no.3 to approach his agricultural land. Subject to further orders by Civil Court, this arrangement shall come to an end automatically without further reference to the Court from 11.08.2025.

9. The Writ Petition is **disposed** of accordingly.

(ROHIT W. JOSHI, J.)

Rushikesh/2025