



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

**WRIT PETITION NO. 8641 OF 2024**

Bhikan Narhari Varpe  
VERSUS  
Bhausahab Baburao Jadhav and others

Mr. N. D. Sonavane, Advocate for petitioner  
Mr. K. F. Shingare, Advocate for respondent No. 1 to 4  
Mr. S. B. Jadhav, AGP for respondent/State

**CORAM : R. M. JOSHI, J.**

**DATE : 15<sup>th</sup> January, 2025**

**PER COURT :-**

1. This petition takes exception to the order dated 27.01.2023 passed by Tahsildar Vaijapur in Rasta Case No. 56 of 2022 and order passed by Sub Divisional Officer dated 21.06.2023 in Revision No. 17 of 2023.

2. The facts appearing from record can be narrated in brief as under.

3. Bhausahab Jadhav and three others filed proceedings against Ashok Varpe, Kanta Varpe and Balu Varpe under Section 5 Sub Section 2 of Mamalatdar Courts Act (for short "the Act") for removal of obstruction caused to the way of plaintiffs to approach their agricultural land through the lands between Gut No. 344, Gut No 345 and Gut No 346. The said

proceeding was undertaken before the Tahsildar. Parties were heard and by order dated 27.01.2023, suit was decreed. Direction was issued for removal of obstruction caused in the Bandh of Gut No. 344 and Gut No. 345 for approaching to Gut No. 319 belonging to the plaintiffs.

4. Against this order Bhikan Varpe filed appeal bearing Revision No. 17 of 2023 before the Sub Divisional Officer, Vaijapur essentially raising objection about he being not made as a party to the proceedings before Tahsildar. It is also contended that the Tahsildar has failed to comply with the provisions of the Act and no evidence was recorded. On these amongst other submissions, challenge is raised to the order passed by Tahsildar. The said revision is dismissed by order dated 21.06.2023. Hence, this petition.

5. Learned counsel for the petitioner submits that petitioner is the owner of Gut No. 345 and since not party to the proceedings before the Mamlatdar/Tahsildar, order came to be passed therein is not binding on him. He also sought to canvas that even without framing issues, Tahsildar proceeded to decide the suit under Section 5 of the Act.

6. Learned counsel for the respondents supported the impugned order.

7. Though, it is sought to be contended that now in this writ

petition petitioner is the sole owner of Gut No. 345 and was not joined as a party to the proceedings, the record indicates that he is not sole owner but he is co-owner of Gut No. 345. Undisputedly, his brother who is the co-owner was joined as party defendant to the proceedings before the Tahsildar. Thus the owner of Gut No. 345, were duly represented in the suit. Pertinently, the order is not passed individually, but against the owners of said land. Pertinently, perusal of the memo of revision also does not indicate that it was claimed by the petitioner herein that he is exclusive owner and, therefore, he was required to be heard.

8.            Apart from this, the orders impugned i.e., order passed by Tahsildar as well as by Revisional Authority clearly indicate that the said orders were passed pursuant to the Punchnama conducted by Tahsildar. Paragraph No. 5 of the impugned order passed by Sub Divisional Officer clearly indicates that the said Authority has take into consideration the Punchnama and the obstruction which was sought to have been caused on the spot between Gut No. 345 and 346.

9.            This is not the case wherein none of the owners of Gut No. 345 was heard before passing the order. The petitioner was unable to show that the Tahsildar has failed to comply with any of the provisions of of the Act while conducting the proceedings before it. Having regard to these afore stated facts, this Court finds no substance in the petition.

Moreover for want of any perversity in the impugned order, no interference is called therein in exercise of writ jurisdiction.

10. Hence, petition stands dismissed.

**(R. M. JOSHI, J.)**

bsj