



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10033 OF 2025

SUDHAKAR MURLIDHAR JAGTAP AND ANOTHER
VERSUS
NARAYAN RANGNATH NEMANE AND OTHERS

...

Mr. Vasant Digambarrao Salunke, Advocate for the Petitioners.

Mr. K. B. Jadhavar, AGP for Respondents-State.

Mr. Chandrakant R. Thorat, Advocate for Respondent No.1.

...

CORAM : S. G. CHAPALGAONKAR, J.
DATED : 11th AUGUST, 2025.

P.C.:-

1. The present petition takes exception to order dated 01.08.2025 passed by Sub Divisional Officer, Vaijapur in Revision No.94/2025, by which learned Sub Divisional Officer relegated matter back for reconsideration to Tahsildar. However, while doing so, granted temporary way in favour of respondents.

2. Mr. Salunke, learned Advocate appearing for petitioners submits that in view of exposition of law by this Court in case of *Sandip Bhagvatrao Bhakare Vs. Santosh Mohanlal Dave*¹, Section 5 of Mamlatdars' Courts Act does not envisage powers to grant temporary way. Similarly, Mr. Salunke places reliance on other two judgments of this Court in case of *Madhukar Vitthal Shinde Vs. The Collector Ahmednagar and Others* (Writ Petition No.11828/2016 dated 25.04.2024) and *Sakharam S/o.*

¹ AIROnline 2021 Bom 3821.

Ganpat Solanki and Ors. Vs. Tahsildar-cum-Mamlatdar, Buldhana and Ors. (Writ Petition No.2607/2021 dated 25.04.2022).

3. Per contra, Mr. Thorat, learned Advocate appearing for respondents submits that aforesaid judgments are held to be *per incuriam* in subsequent decisions delivered by this Court in case of ***Manorati Mukund Gaude and Ors. Vs. Mr. Guru Sheddu Gaude and Ors. (Writ Petition No.102/2024 dated 02.05.2024)***, particularly, he refers to paragraph no.43 to contend that decisions referred by Mr. Salunke are passed without taking into account earlier two decisions of Supreme Court of India.

4. Looking to the nature of controversy and fact that learned Sub Divisional Officer has relegated matter for fresh consideration to Mamlatdar on its own merits, it would be appropriate that till Mamalatdar takes decision, parties to maintain *status quo* as on today.

5. In that view of the matter, writ petition stands **disposed of**.

6. The learned Mamlatdar shall endeavour to decide proceeding expeditiously after giving opportunity to lead evidence to both parties. In any case, proceeding be decided within period of eight weeks from today.

7. Parties to co-operate.
8. Till disposal of proceeding before Mamlatdar, parties to maintain status *quo as* on today in respect of suit way.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/August-2025