



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

WRIT PETITION NO. 10329 OF 2024

Asaram Ram Dilwale And Others

VERSUS

The State Of Maharashtra Through The Department And
Others

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Mr. K. F. Shingare, Advocate for the Petitioners

Mr. R. D. Raut, AGP for Respondents-State

Mr. W. S. Jadhav, Advocate for Respondent no.4

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CORAM : ROHIT W. JOSHI, J.

DATED : 11TH JUNE, 2025

PER COURT :-

. The present petition takes exception to the order dated 10.03.2023 passed by the learned Tahsildar, Paithan, under Section 5 of the Mamlatdar Courts Act, thereby granting way to the respondent no.4/original applicant through the field of the petitioners, who are original non applicants. The said order was assailed by the petitioners by filing revision under Section 23 of the Mamlatdar Courts Act, which also came to be rejected vide order dated 09.07.2024 passed by the Sub Divisional Officer. Learned Mamlatdar had granted way to the applicant/respondent no.4 through land bearing gut no.114 and gut no.102 or alternatively through gut nos.103

and 104. The respondent no.4 has also challenged the order passed by the learned Mamlatdar contending that the road ought to have been granted through land bearing gut nos.114 and 102, interalia, the said revision application came to be allowed vide order dated 09.07.2024.

2. Learned Counsel for the petitioner has drawn my attention to the application filed by the respondent no.4 on 10.06.2021. The application does not specify the date on which the alleged road was blocked. The learned authorities have also not recorded any finding as regards the date on which the road was blocked. The Mamlatdar has jurisdiction to order removal of obstruction on an existing road provided the obstruction is made within a period of 6 months prior to the date of filing of the application. Section 12(c)(ii) mandates that if the cause of action arises beyond a period of six months from the date of application, the proceeding must be rejected. The application is absolutely silent in this regard. Likewise, no finding is recorded by the learned Mamlatdar as also by the learned Divisional Authority as regards the date of alleged obstruction. Apart from this, it is apparent that the application is also not properly filed as contemplated under

Section 7 of the Act. The formalities to be observed for curing the defects as contemplated under Sections 8 and 9 have also not been followed. The application, which is required to be filed as a plaint is also not verified and the procedure contemplated by Section 10 of the Act is also not followed.

3. In view of the aforesaid, the orders impugned in the present petition are required to be quashed and are quashed accordingly.

4. However, having regard to the fact that the respondent no.4/original applicant is old illiterate and gullible lady, the proceeding is remanded back to the Mamlatdar. The learned Mamlatdar is directed to proceed with the matter by observing all the procedural formalities as contemplated under the Act. The matter should be adjudicated by following the prescribed procedure on or before 31.12.2025. The parties are directed to appear before the Mamlatdar on 01.07.2025 at 11.00 am. Parties to note that separate notice will not be issued by the Mamlatdar.

(ROHIT W. JOSHI, J.)