



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10978 OF 2024

Ganpati Sadashiv Kavale

VERSUS

The State Of Maharashtra Through The Deputy Collector And
Others

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Mr. C. D. Biradar, Advocate for the Petitioner

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

Mr. M. S. Deshmukh h/f Mr. U. L. Momale, Advocate for
Respondent no.3

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CORAM : ROHIT W. JOSHI, J.

DATED : 07TH JULY, 2025

PER COURT :-

. Learned Counsel for the petitioner seeks permission to withdraw the petition with liberty to file Civil Suit in order to challenge the orders impugned in the present petition.

2. Permission is granted to withdraw the suit with liberty as aforesaid. Needless to mention that as is held by this Court in the matter of *Mohammad Khan s/o Rahim Khan Vs. Shankar Maroti Dhage and another*, reported in *2017 (3) Mh.L.J. 135*, a Civil Court is an appropriate remedy for challenging orders passed under the Mamlatdars' Courts Act, 1906.

3. Learned Counsel for the petitioner requests to continue interim order dated 07.10.2024 for a reasonable period.

4. Mr. Deshmukh, learned Advocate for the respondent no.3 contends that Government of Maharashtra has issued government resolution dated 22.05.2025, stating that in all matters under Section 143 of the Maharashtra Land Revenue Code, 1966, as also Section 5 of the Mamlatdars' Courts Act, 1906, road of width of minimum 3 to 4 meters must be granted. He contends that in order to use the road as cartway, minimum 8 to 10 feet wide road is required.

5. In this regard, it will be appropriate to refer to the affidavit in reply dated 28.06.2024 filed by the Circle Officer, Udgir in the earlier round of litigation i.e. Writ Petition No.14195 of 2023. Alongwith reply, photographs are filed. Perusal of photographs will show that the road that was carved out pursuant to the orders passed by the Mamlatdar is a motorable road in as much as a truck is seen plying on the road in one of the photographs.

6. The order dated 07.10.2024 is an *ex-parte* interim order, where this position was probably not brought to the

notice of this Court. In view of the aforesaid, the request for extension of interim order is extended by period of four weeks from today subject to the condition that the petitioner shall keep road open to the extent of 10 feet minimum.

7. This order will operate for four weeks from today i.e. till 04.08.2025.

(ROHIT W. JOSHI, J.)

Rushikesh/2025