



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

WRIT PETITION NO.1185 OF 2019

Devidas Ganyba Suryavanshi
Age 62 years, Occu : Farmer,
R/o. Takli (B), Tq & Dist. Latur.

.. PETITIONER
(Orig. Applicant)

VERSUS

- 1] Seetabai w/o. Venkatrao Baikare
Age : 55 years, Occu : Farmer & HH,
R/o Takli (B) Tq. & Dist. Latur.
- 2] Tahasildar Latur, Dist. Latur
- 3] Sub-Divisional Officer (Revisional) Authority
Latur Dist Latur.

.. RESPONDENTS
(Orig.Respondent)

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Mr.A.G.Deshmukh, Advocate for the petitioner.
Mr.D.R.Karade, AGP for the respondent nos.2 and 3.
Mr.A.A.Joshi, Advocate holding for Mr.S.V.Natu, Advocate
for respondent no.1.

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CORAM : ARUN R.PEDNEKER, J.

Reserved on : 25.08.2025
Pronounced on : 08.09.2025

ORDER :

- 1] By the present writ petition, the petitioner
challenges the judgment and order passed by the Sub

Divisional Officer, Latur in File No. 2016/ROR/A-36 dated 30.07.2018 allowing the Revision Petition by setting aside the order passed by the Naib Tahsildar, Latur, dated 30.05.2016. The revisional authority relied upon the report dated 09.12.2014 submitted by the Circle Officer wherein it is stated that the land of Devidas Gynaba Suryavanshi and Sitabai Venkatrao Baikare is situated in Gat No.197 and 7/12 extract of the said Gat No.197 does not show any vahiwat (*paulwat*). It is also stated in the said report that Seetabai Baikare i.e. respondent no.1 had allowed usage of road for some days to the petitioner. Thereafter, when she realized that it was causing disturbed to her crops, she stopped the vahiwat. It is observed in the impugned order that from Takali to Bhoisamudraga, alternate road is in existence in Gat No.198. It is observed that since there is no road shown in the village map, claimed road is not a customary road and the same is not allowed to be opened. As such, the Revisional Authority set side the order of the Tahsildar (Mamltadar).

2] The learned counsel for the petitioner submits that he is the owner of Gat No.197 to the extent of 2 H. 40 R. and there is public road adjacent to the said land. The petitioner sold 1 H. 61 R. land to one Nandu Somwanshi by a registered sale deed and that there was agreement between purchaser of the land i.e. Mr.Nandu Somwanshi and the petitioner. It is mentioned in the said agreement that there is 8 feet road to approach the land of the present petitioner on the boundary line on the land sold to Nandu Somwanshi by south-north and by usage of the way the petitioner approached to his field and Mr.Nandu Somwanshi would not interfere in the said road. The said Nandu Somwanshi again sold the land purchased by him to the present respondent i.e. Seetabai by a registered sale deed. Thereafter, the present respondent no.1 started obstruction the usage of the road by digging pits and by cultivating the land used for road and putting obstruction on the road. As such, the petitioner filed an application under Section 5 of the Mamlatdars Courts Act before the Tahsildar. On receipt of the said application, Circle

Inspector conducted inspection and recorded the statement of adjacent land owner and submitted a report in respect of disputed land. Thereafter, the Tahsildar, Latur personally visited the spot for local inspection of the said land and after hearing both sides, allowed the application on 30.05.2016. Thereafter, in the Revision filed by the respondent, the Revisional Authority, by order dated 30.07.2018, set aside the order dated 30.05.2016 passed by the Tahsildar. Being aggrieved by the said order, the present petition is filed by the petitioner.

3] The learned counsel for the petitioner submits that the Tahsildar as well as Circle Officer had conducted spot inspection and had found that there is a road in existence and that usage was established by the affidavits of adjacent land owners. As such, the Revisional Authority has erred in interfering with the order of the Tahsildar, merely by holding that such road is not seen in 7/12 extract, so also, in the sale deed. As such, the order of revisional authority is patently illegal and the same be quashed and set aside.

4] *Per contra*, the learned counsel for the respondents submits that the revisional authority has rightly appreciated that there is no long standing road in existence and it is, therefore, not seen in the village map, nor in the sale deed or in the 7/12 extract. The learned counsel further submits that the order of the revisional authority is correct and should not be interfered with. He further points out that there is order passed by the Civil Court in civil suit filed by the petitioner against the present respondent and the suit is filed for claiming damages for obstruction of the same road. The learned counsel further submits that issue no.1 formulated in Regular Civil Suit No.98/2014 is as under :

अ.क्र.	मुद्दे	निष्कर्ष
१	वादी असे सिध्द करतो काय की, त्याचे व प्रतिवादी यांच्या शेतजमीनीच्यापूर्व बाजूस उत्तर-दक्षिण ८ फूट रुंदीचा वादग्रस्त रस्ता अस्तिवात आहे?	नकारार्थी

The above mentioned issue is answered against the present petitioner. There is no appeal preferred against

the said judgment. The finding of the Civil Court would any way override any orders passed before the Authority constituted under the Mamlatdars' Courts Act.

5] Considered the submissions of the parties. The Civil Court in Civil Suit No.98/2014 has passed judgment and the issue in respect of existence of road is answered in negative.

6] Section 26 of the Mamlatdars' Courts Act, which provides as under :

26. ***Bar of certain suits :***

No suit shall lie under this Act,

(a)

(b) in respect of [any removal of any impediment or of] any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, under this Act, or in a Civil Court or under Chapter XII of the Code of Criminal Procedure, 1898.

Section 26 of the Mamlatdars' Courts Act, provides that no suit shall lie under the Mamlatdars' Courts

Act, when the subject of disturbance of possession has been the subject of previous proceeding instituted in a Civil Court. The exercise of jurisdiction under the Mamlatdars' Courts Act, by the Mamlatdar in such a situation is barred. Perusal of Section 26 (b) of the Mamlatdars' Courts Act would indicate that in respect of any dispossession, recovery of possession or disturbance of possession, that has been the subject of previous proceedings, to which the plaintiff or his predecessor in interest was a party, the proceedings before the Mamlatdar Court are also barred.

7] Considering the above, the order of the revisional authority dismissing the revision is not interfered with. Hence, the Writ Petition is dismissed. All orders passed by the authorities constituted under the Mamlatdars' Courts Act are subject to the order of the Civil Court in terms of Section 22 of the Mamlatdars' Courts Act. As such, liberty is reserved to the petitioner to seek such legal remedy by instituting civil suit for declaration and injunction if available in law and if not barred by principles

of res-judicata. If such a suit is filed, the trial court would decide the same in accordance with law.

[ARUN R. PEDNEKER]
JUDGE

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