

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 12413 OF 2023

Bhagwan Narayan Hon And Others

VERSUS

The Sub Divisional Officer Shirdi And Others

...

Advocate for the Petitioners : Mr. Kute Rajendra L.

AGP for Respondent/State : Mr. S.P Joshi

Advocate for Respondent No.3A to 3C, 4 : Mr. Kulkarni Sanket S.

...

CORAM : S. G. CHAPALGAONKAR, J.

DATED : JULY 25, 2025

PER COURT :-

1. The petitioners impugn order dated 03.04.2023 passed by Sub-Divisional Officer, Shirdi in Revision Application No.93 of 2022 thereby upholding judgment and order dated 08.02.2022 passed by Mamlatdar/Tahsildar, Shirdi in Rasta Case No.32 of 2019.

2. Respondent nos.3 to 5 had approached the Mamlatdar alleging that existing road passing from southern side of their lands has been obstructed by petitioners. In pursuance of such an application, learned Tahsildar caused panchnama, recorded statements of parties and after hearing all concerned, arrived at conclusion that pathway as claimed by respondents was in existence. Accordingly directed petitioners not to obstruct user of such way.

3. The petitioners/original respondents aggrieved by order of Mamlatdar filed Revision Application No.93 of 2022 before Sub-Divisional Officer, Shirdi under Section 23 (2) of Mamlatdar's Courts

Act. The learned Sub-Divisional Officer after considering rival submissions affirmed order as passed by Tahsildar.

4. Mr. Kute, learned advocate appearing for petitioners invites attention of this Court to spot map and submits that from northern side of land of respondents, there is a government road. He would further invite attention of this Court to village map which shows existence of such road. According to him, petitioners had created suit road for their own use from southern side of their land. The respondents cannot claim any right over such way.

5. Per contra, Mr. Kulkarni, learned advocate appearing for respondents submits that even Gram Panchayat has carried some work of construction at the site and built a road for usage of villagers. He would further invite attention of this Court to application/pursis dated 03.01.2020 filed by petitioners, wherein they have admitted existence of way. However, asserting that respondents shall also contribute equivalent portion of their land for construction and user of road, commensurate to each of petitioners.

6. Having considered submissions advanced, only two issues are relevant for consideration in this writ petition. Firstly, as to whether the respondents have established existence of way as claimed and secondly, whether they prove obstruction by petitioners.

7. Perusal of record indicates that the Tahsildar caused panchnama in pursuance to application of respondent claiming

existence of way. Pertinently, application dated 03.01.2020 submitted by petitioners to Tahsildar indicates that land of petitioners is covered by existing way. However, they are expecting respondents to make available equivalent portion of land for the said way. During trial, statement of witnesses are also recorded before learned Tahsildar wherein reference can be found as to existence of road. Learned Tahsildar has further found that Village Panchayat has invested funds for construction and maintenance of road and provided facilities in benefit of villagers.

8. All these circumstances are sufficient to draw conclusion preexistence of road. So far as obstruction on the part of petitioners is concerned, their conduct is sufficient to infer that they are obstructing respondents from using road and putting them to condition to contribute some part of their land for user of road. The authorities have correctly recorded finding as to existence of way and obstruction as claimed.

9. In that view of matter, this Court finds no merit in writ petition to interfere in impugned orders under Article 227 of Constitution of India. Hence, writ petition stands rejected.

(S.G. CHAPALGAONKAR, J.)