



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11334 OF 2022

Eknath Sahebrao Wankhede

VERSUS

The State Of Maharashtra Through The Secretary And
Others

- Mr. S. R. Bagal h/f Mr. B. N. Gadegaonkar, Advocate for the Petitioner
- Mr. S. B. Jadhav, AGP for the Respondent Nos. 1 and 2/State
- Mr. R. N Chavan, Advocate for the Respondent Nos. 3 to 15

CORAM : R. M. JOSHI, J
DATE : FEBRUARY 26, 2025

PER COURT :

1. This Petition takes exception to the orders passed by the Tahsildar and confirmed by the Sub-Divisional Officer under Section 5 of the Mamlatdar Court's Act, 1906.

2. The Petition is filed essentially on the ground that the Petitioner was not served with notice before Tahsildar in the said proceeding. Thus, on the ground of denial of opportunity of hearing, exception is taken to the orders impugned.

3. In order to ascertain the said fact, the

proceedings before the Tahsildar were called for perusal. The said record indicates that no notice is served to the Petitioner of the said proceedings bearing no. 2021/Jama-1/Kavi.

4. Learned Counsel for contesting Respondents has drawn attention of the Court to the panchnama recorded on 17.12.2021 indicating that the Petitioner was present at the time of the spot panchnama. Thus, it is his contention that from this panchnama inference can be drawn that the Petitioner had knowledge of the said proceeding before Tahsildar.

5. From the contentions of the parties, it is clear that the dispute is with regard to the way in the agricultural land of the Petitioner and Respondents. Thus, presence of the Petitioner at the time of the panchnama, if any, is natural and that the same cannot be constructed as knowledge to the Petitioner of the proceeding itself. Needless to say that any order passed without giving opportunity of hearing cannot sustain. Only for this reason, the orders impugned are set aside.

6. Considering the fact that the issue is with regard to the way from agricultural land, the Tahsildar is directed to decide the said application within a period of two months from today.

7. The Counsels for the Petitioner and contesting Respondents, on instructions, undertake to appear before the Tahsildar on 03.03.2025. Tahsildar is not required to issue fresh notices to the parties.

(R. M. JOSHI, J.)