



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

27 WRIT PETITION NO. 12728 OF 2025

MADHUKAR KANIRAM PAWAR
VERSUS
THE SUB DIVISIONAL OFFICER KINWAT AND OTHERS

...
Advocate for the Petitioner : Mr. Ade Ravindra B.
AGP for Respondent/State : Mr. K.N. Lokhande
...

CORAM : ARUN R. PEDNEKER, J.

Dated : October 14, 2025

PER COURT :-

1. By this writ petition, the petitioner challenges the order passed under section 5 of the Mamlatdar Courts Act ('the Act' for short) by the Mamlatdar which is confirmed by the revisional authority under section 23 of the Act, directing the petitioner to remove the obstruction from the path way.
2. The learned counsel for the petitioner petitioner submits that the original applicants did not have right to access the land of the petitioner.
3. Both the authorities have concurrently held that original applicants have such right and the road is obstructed by the petitioner and as such directed the petitioner to open the path way. This Court would not enter into the concurrent findings of the facts of the authorities below in a writ jurisdiction. It is well settled that any order passed by the Mamlatdar under the Act would be subject to interim order/final order passed by the civil court qua the same subject matter in terms of section 22 of the Act. The order passed by the civil court in a civil suit qua the same subject matter would over ride the orders passed by the authorities under the Act.

As such, the petitioner can approach the civil court to redress his grievance. Liberty is granted to the petitioner to approach the civil court seeking such remedy as may be available in law by filing appropriate proceeding.

4. The learned counsel, however, submits that if the impugned order is implemented, great prejudice would be caused to the petitioner. Considering the same, the authorities constituted under the Act shall not implement the impugned orders if not already implemented for the period of three weeks from today so as to enable the petitioner to approach the civil court.

5. It is made clear that this court has not expressed anything on merits of the case and the order passed today is not on merits of the matter. Liberty is also reserved to the respondents to seek recall of the present order, if respondents are aggrieved. In the event proceeding is filed before the civil court qua the same subject matter, the civil court to determine the same without being influenced by the observations made by this court in this writ petition or the observations made in the orders passed the authorities under the Act. The civil court to decide the same on it's own merits.

6. With the above observations, the writ petition is dismissed.

(ARUN R. PEDNEKER, J.)

ssc/