

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO. 06 OF 2025
IN CRA/198/2023

01. Rajendra s/o Chintaman Bhalerao,
Age-52 Yrs., Occu.-Service,
R/o-Flat No.1201Mah.LIG Building,
No.8, Dhanshri Society, Sct.-37,
Taloja, Dist.-Raigad.
02. Smt. Jayashri w/o Narayan Sapkale,
Age- 61 Yrs., Occu.-Household,
R/o-Bhaskar Nagar, Bhadgaon Road,
Pachora, Dist.-Jalgaon.
03. Ranjanas/o Shivram Sapkale,
Age- 59 Yrs., Occu.-Household,
R/o- Gendalal Mill, Jalgaon,
Tq. & Dist.-Jalgaon.
04. Chandrabhagabai w/o Bhagwat Bhalerao,
Age-71 Yrs., Occu.-Household.
R/o - Rahul Nagar, Bhusawal,
Tq.-Bhusawal, Dist.-Dist.-Jalgaon. ..Applicants

Versus

01. Dinkar s/o Mulchand Bhalerao,
Age-68 yrs., Occu.-Retd.,
02. Devanand s/o Mulchand Bhalerao,
Age-56 yrs., Occu.-Service,
Res.No.1 & 2 Above
R/o-Block No.12, Plot No.44
Parakh Nagar, Near Telephone Nagar,
Jalgaon, Tq. & Dist.-Jalgaon.
03. Chandrakant Chintaman Bhalerao
(died on 01.05.21) ..Respondents

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Advocate for Applicants : Mr. A.M. Gholap
Advocate for Respondents : Mr. A.P. Yenegure

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : AUGUST 01, 2025

PRONOUNCED ON : AUGUST 07, 2025

ORDER :-

1. The applicants seeks review of order dated 25.11.2024 passed by this Court in Civil Revision Application No.198 of 2023 thereby rejecting civil revision application seeking rejection of plaint in Regular Civil Suit No.01 of 2018 pending before Civil Judge Junior Division, Yawal.

2. Heard Mr. A.M. Gholap, learned advocate appearing for applicants and Mr. A.P. Yenegure, learned advocate appearing for respondents.

3. The applicants herein had filed civil revision application against order passed below Exhibit-21 in Regular Civil Suit No.01 of 2018 thereby rejecting application under Order VII Rule 11 of Civil Procedure Code. It is contention of applicants that respondent no.1 instituted Regular Civil Suit No.01 of 2018 and indirectly challenged the order passed by revenue authorities under Section 143 of Maharashtra Land Revenue Code. According to applicants once the revenue authority passes an order under Section 147 of Maharashtra Land Revenue Code and aggrieved party exhaust remedy of appeal or revision without filing of suit as per Section 143(4), the subsequent

suit would not be maintainable for any relief that would tantamount to frustrate the order of Tahsildar granting approach way.

4. This Court after considering rival contentions dismissed civil revision application on two grounds. Firstly, the order in Wahivat Case No.03 of 2013 passed by Tahsildar in exercise of jurisdiction under Section 5 of Mamlatdar's Courts Act and not under Section 153 of Maharashtra Land Revenue Code. Secondly, the jurisdiction of Civil Court is not barred to entertain substantive suit filed by aggrieved party seeking declaration and injunction against defendants from creating a new way or disturbing peaceful possession of plaintiff.

5. Mr. Gholap, learned advocate appearing for applicants submits that this Court erroneously observed that Wahivat Case No.03 of 2013 was filed under Section 5 of Mamlatdar's Courts Act, although title and prayer of application depict that proceeding was filed for carving out new road under Section 143 of Maharashtra Land Revenue Code. He would therefore urge that error apparent on face of record has occurred hence impugned order under review needs to be recalled.

6. Mr. A.P. Yenegure, learned advocate appearing for respondents submit that contentions raised in review have been duly considered by this Court while deciding the revision application hence grounds of review are nothing but reiteration of the case of applicants that was put up at the time of hearing of revision application.

7. Having considered submissions advanced, it can be observed that this Court after perusal of contents of application in Wahivat Case No.03 of 2013 and particularly issues framed therein noted that although the application is titled under Section 143 of Maharashtra Land Revenue Code, it has been ultimately decided under Section 5 of Mamlatdar's Courts Act thereby issuing directions to clear existing way blocked by applicants. This Court has further observed that looking to prayers in Regular Civil Suit No.01 of 2018 instituted by respondents, it cannot be said that order passed by revenue authority has been subjected to challenge in suit. The respondent/plaintiff is claiming independent relief of declaration and injunction. Thus, suit cannot be treated as barred by law to invoke jurisdiction under Order VII Rule 11(d) of Civil Procedure Code. Apparently, rejection of revision application is on two grounds.

8. In that view of matter, no good ground is made out to exercise review jurisdiction under Section 14 r/w Order 47 Rule 1 of Civil Procedure Code.

9. In result, the application stands rejected.

(S.G. CHAPALGAONKAR, J.)