



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL REVISION APPLICATION NO.193 OF 2025**

Shantabai Vhatkar ... Applicant
versus
Mohanrao Ranawane and Ors. ... Respondents

Mr. Ashwin Thool with Mr. Sarthak Bharsakla, for Applicant.
Mr. Amol L. Dhumal, for Respondent No.1.

CORAM: N.J.JAMADAR, J.

DATE : 2 APRIL 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This revision is directed against the order dated 11 July 2024 passed by the learned Civil Judge, Sr. Division, Satara, whereby the application preferred by the Applicant – Defendant No.6 for the rejection of the plaint under Order 7 Rule 11(d) of the Code of Civil Procedure, 1908, came to be rejected.
3. Respondent No.1 – original Plaintiff, is the holder of the agricultural land bearing Survey No.60/1/B situated at Mauje Chaudharwadi, Tal. Phaltan, Satara. As there was no way to the suit land, in the year 2007, the Plaintiff acquired the land from Defendant No.8, whose land bearing Survey No.63/3F is situated on the northern side of the suit land and converted the same into a way to approach the suit land.
4. Defendant No.5 whose land is situated on the southern side of the suit

land filed an application under Section 143 of the Maharashtra Land Revenue Code, 1966 for a right of way. By an order dated 17 January 2020, Tahasildar – Phaltan, granted cart-way from the suit land. The said order was challenged by the Plaintiff before the Sub-Divisional Officer, Phaltan, in Appeal No.34 of 2020. By an order dated 20 October 2021, the said appeal came to be partly allowed, and, while affirming the order of Tahasildar, SDO directed the Plaintiff to execute Sale Deed of a strip of land upto the land owned by Defendant No.6. Second appeal preferred by the Plaintiff before the District Collector, Satara, was dismissed by a judgment and order dated 4 May 2023.

5. The Plaintiff, thus, approached the Civil Court seeking declaration that the orders passed by the Tahasildar, SDO and District Collector – Defendant Nos.1 to 3 were illegal and for the consequential relief of injunction to restrain the Defendants from causing obstruction to the possession and enjoyment of the Plaintiff over the suit land.

6. The applicant preferred an application for rejection of the plaint on the ground that the suit was barred by the provisions of Section 143 of the Land Revenue Code, 1966. Secondly, once having approached the appellate authorities under the Maharashtra Land Revenue Code against the order passed by the Tahasildar, it was incumbent upon the Plaintiff to carry those orders before the revisional authorities under the Maharashtra Land Revenue

Code and the Plaintiff could not have assailed those orders before the Civil Court. The learned Civil Judge found no merit in the application.

7. Mr. Thool, learned Counsel for the Applicant, submitted that the Plaintiff was entitled to institute a suit under the provisions of Section 143(4) of the Code against the order passed by the Tahasildar granting right of way, within a period of one year from the date of the said decision. However, once the Plaintiff resorted to the remedies under the provisions of the Code, by preferring appeals before the appellate authorities, it was not open for the Plaintiff to assail the orders passed by the revenue authorities, after the expiry of the said period of one year. Since two further revisions are available under the Code, 1966, the mid-way course correction was impermissible. It was submitted that the learned Civil Judge did not properly appreciate this aspect of the matter.

8. Mr. Thool placed reliance on the Constitution Bench judgment in the case of Dhulabhai V/s. State of Madhya Pradesh and Anr.¹ and the judgment of the Supreme Court in the case of Bata Shoe Co. Ltd. V/s. City of Jabalpur Corporation², wherein the Constitution Bench judgment in the case of Dhulabhai (supra) was further explained.

9. I find it rather difficult to accede to the submissions of Mr. Thool. It is imperative to note that Defendant No.5 had filed an application for right of way

1 1968 SCC Online SC 40

2 (1977) 2 SCC 472

under Section 143 of the Code. On its plain reading, Section 143(1) empowers the Tahasildar to inquire into and decide claims by persons holding land in a survey number to a right of way over the boundaries of other survey numbers. Under sub-section (4) of Section 143, any person who is aggrieved by a decision of Tahasildar under this Section may, within a period of one year from the date of such decision, institute a civil suit to have it set aside or modified. Sub-section (5) provides that where a civil suit has been instituted under sub-section (4) against the Tahasildar's decision, such decision shall not be subject to appeal or revision.

10. A cumulative reading of sub-sections (1), (4) and (5) of Section 143 would indicate that no finality is attached to the decision of Tahasildar under the said Section. On the contrary, the said decision is made expressly subservient to the provisions of sub-sections (4) and (5). The primacy of the Civil Court is further fortified by providing that once the Tahasildar's decision is questioned in a civil Suit, such decision shall not be subject to the appeal or revision before the authorities under the Code. Consequently, the appellate and revisional authorities under the Code are precluded from inquiring into correctness of the decision of Tahasildar, once it is challenged before the Civil Court. Therefore, the submission of Mr. Thool premised on the exclusion of the jurisdiction of the Civil Court does not merit countenance.

11. Ordinarily, the civil Court has jurisdiction to decide all disputes of civil

nature, unless the jurisdiction is expressly or impliedly barred. It is well recognized that the exclusion of the jurisdiction of the civil Court is not to be readily inferred. The presumption must be in favour of the existence rather than exclusion of the jurisdiction of the Civil Court. Even when there is an express bar to the jurisdiction of the Civil Court, the Civil Court is not precluded from inquiring into the question as to whether authority or tribunal has acted within the bounds of jurisdiction; the order passed by the authority or tribunal is a nullity or the tribunal has not acted in conformity with the fundamental principles of judicial process. If the decision of the authority or tribunal can be assailed on any of the aforesaid grounds, the Civil Court still retains the inherent jurisdiction to adjudicate the dispute.

12. In the case at hand, the orders passed by both the Tahasildar and SDO, prima facie, appear to be in clear transgression of the jurisdictional limits of their authority under Section 143 of the Code. Firstly, under Section 143 of the Code, the Tahasildar is empowered to grant a right of way over the boundaries of the adjacent survey numbers. In the case at hand, by an order dated 17 January 2020, Tahasildar, Phaltan had purportedly granted right of way to the Plaintiff through the land of the Plaintiff. The order of the SDO is even more baffling. The SDO commanded the Plaintiff to execute the sale deed in respect of a strip of land to facilitate the right of way. Such an order is completely beyond the remit of the inquiry under the Code.

13. The learned Civil Judge was, thus, well within his rights in holding that there is no bar to the civil Court's jurisdiction. No interference is warranted in exercise of revisional jurisdiction.

14. The Revision Application stands dismissed.

(N.J.JAMADAR, J.)