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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.6774 OF 2025
IN
REJECTED CASE NO.278 OF 2019
WITH
WRIT PETITION (ST.) NO.28138 OF 2017

Parshuram Shivappa Kamble & Ors. ... Petitioners

V/s.

Raghunath Mahipati Kamble & Ors. ... Respondents

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Mr. Ajit M. Savagave for the petitioners.

CORAM : AMIT BORKAR, J.

DATED : APRIL 3, 2025

P.C.:

1. The petitioners have approached this Court by invoking its writ jurisdiction under Article 226 of the Constitution of India, challenging the legality and validity of the orders passed by the Authorities constituted under the Mamlatdar's Courts Act, 1906. Upon perusal of the record, it is evident that both the Authorities below, while exercising powers conferred upon them under the said Act, have concurrently recorded a finding as regards the existence of a road/pathway, which is the subject-matter of dispute in the present petition. Such finding has been rendered primarily on the basis of a *panchanama* drawn by the Tehsildar, which purports to reflect the physical condition of the suit land and the

existence of a road thereon.

2. The learned Advocate appearing for the petitioners has strenuously urged that the said *panchanama* was drawn behind the back of the petitioners and without issuance of any prior notice to them, thereby denying them an opportunity of participation. While this contention is noted, a bare perusal of the *panchanama* reveals that it prima facie discloses the existence of a pathway or road. In proceedings under the Mamlatdar's Courts Act, the Authorities are primarily concerned with the issue of obstruction to enjoyment of customary rights and the existence of easementary paths or ways, and the findings recorded therein are essentially of a summary nature, intended to provide immediate relief and restore status quo ante where warranted.

3. The impugned order under challenge was passed in the year 2017. The present writ petition has been instituted after an inordinate lapse of approximately eight years. There is no satisfactory explanation offered for such delay. In the absence of such explanation and in view of the concurrent findings of fact rendered by both the Authorities below, no case is made out for this Court to exercise its discretionary and equitable jurisdiction under Article 226 of the Constitution of India, particularly in a matter involving disputed questions of fact and possession, which would be more appropriately adjudicated upon by a competent Civil Court. Interference in such matters after passage of considerable time would not be justified, particularly when the order does not suffer from any apparent perversity or jurisdictional error.

4. It is, however, clarified that the observations made herein are confined solely to the adjudication of the present writ petition and shall not be construed as an expression of opinion on the merits of the rival claims of the parties. The petitioners are at liberty to seek appropriate reliefs by instituting a substantive civil suit, if so advised, for ventilation and adjudication of their civil rights, including the rights of ownership or easement, before a competent Civil Court. All contentions of the parties in that regard are expressly kept open.

5. Accordingly, the writ petition stands disposed of in above terms. No costs.

6. In view of this, the interim application does not survive and disposed of as such.

(AMIT BORKAR, J.)