

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1639 OF 2019

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Vitthal Balu Sarvade

... Petitioner

V/s.

Sakharam Namdev Sarvade

Through His Legal Heirs & Ors.

... Respondents

Mr. Ashok B. Tajane for the petitioner.

Mr. R. S. Pawar, AGP for the State.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 5, 2025

P.C.:

1. The writ petition arises out of proceedings under Section 5 of the Mamlatdars' Courts Act, 1906. Initially, the Mamlatdar directed removal of obstruction, however, the revisional Court in exercise of power under Section 23 of the Act held that the procedure adopted by the Tahsildar was improper. Moreover, necessary parties were not added in the proceedings.

2. It appears that substantive suit between the parties is pending before the Civil Court. Therefore, the rights of the petitioner can conclusively be decided by the Civil Court.

3. Hence, keeping all contentions raised by the parties in the writ petition open to be agitated before the Civil Court, the writ

petition stands disposed of.

4. The decision of this Court shall not preclude the petitioner from filing fresh application under Section 5 of the Mamlatdars' Courts Act, 1906.

(AMIT BORKAR, J.)