

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10010 OF 2024

Shobha Dilip Jadhav

...Petitioner

V/s.

Shobha Rangrao Gaikwad and Ors.

...Respondents

Mr. R.M. Haridas with *Mr. Simnath Thengal and Mr. Nakul Shukla i /b. Mr. Prasad P. Kulkarni for the Petitioner.*

Mr. Chetan G. Patil for Respondent No.1.

Mr. Ketan Joshi, 'B' Panel for Respondent Nos.2 and 3.

CORAM: SANDEEP V. MARNE, J.

Dated: 16 April 2025.

P.C.:

1) Petition challenges order dated 20 May 2024 passed by the Sub Divisional Officer, Ichalkaranji, (SDO) dismissing the Revision preferred by the Petitioner and confirming the order dated 5 March 2019 passed by the Mamlatdar under Section 5 of the Mamlatdar's Courts Act, 1906. By his order dated 5 March 2019, the Mamlatdar has directed the Petitioner to remove the obstruction on the road passing through land bearing Gat No.199-A.

2) The Petitioner has placed on record a rough sketch (समजूतीचा नकाशा) which was also filed before the SDO. The said

map shows existence of National Highway passing through first Respondent's land bearing Gut No.225. Ordinarily therefore, the Respondent can easily access both sides of her land through the National Highway.

3) It is the contention of Mr. Patil, the learned counsel appearing for the Respondent No.1 that the National Highway is located at a height of 8 to 9 ft. and it is difficult to access land bearing Gut No.225 through that Highway. However, even if the alleged road passing through Gat No.199-A is to be opened for the first Respondent, the Respondent will have to ultimately cross the National Highway in order to access the further road which bifurcates towards eastern and northern sides after meeting the Highway. In short, the road on which removal of obstruction is sought also meets the Highway. The first Respondent will thus have to ultimately cross the Highway at some point of time. It is therefore necessary that a fresh site inspection is conducted in order to ascertain as to whether first Respondent can access her land through the National Highway passing through Gat No.225.

4) It appears that when the site inspection was conducted by the Tehsildar on 26 February 2018, National Highway was yet to be constructed. Now construction of the Highway is complete. The SDO has confirmed existence of National Highway passing through first Respondent's land bearing Gat No.225. In my view, since Respondent will have to ultimately cross the National Highway, even if she is to be given access through the alleged

road passing through Gat No.199-A, it is necessary to ascertain whether the first Respondent can otherwise access her land from the National Highway. For that purpose, fresh site inspection would be necessary.

5) In that view of the matter, orders dated 20 May 2024 passed by the SDO as well as order dated 5 March 2019 passed by Mamlatdar are set aside. The proceedings are restored on the file of Mamlatdar, who shall proceed to conduct a fresh site inspection for ascertaining as to whether first Respondent can access her land bearing Gat No.225 through National Highway or not. The Mamlatdar shall conduct site inspection after issuance of notices to both the parties. Depending on the outcome of site inspection, Mamlatdar shall pass a fresh order in the proceedings, uninfluenced by the previous order passed by him as well as the order passed by the SDO.

6) All rights and contentions of the parties are expressly kept open. Mamlatdar shall proceed to decide remanded proceedings in an expeditious manner, preferably within a period of four months.

7) With the above directions, Petition is disposed of.

[SANDEEP V. MARNE, J.]