

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13127 OF 2024

Nagu Dhula Shinde & Ors.

...PETITIONERS

V/S.

Laxman Ganpat Vhadgar & Ors.

...RESPONDENTS

Mr. Nikhil G. Hire *a/w. Mr. Soham Powar for the Petitioners.*

Mr. Sanjay B. Patil *for the Respondent.*

Ms. A. A. Nadkarni AGP for Respondent-State.

CORAM : SANDEEP V. MARNE, J.

Dated : 5 March 2025.

P.C. :

1. The petition challenges order dated 29th August 2024 passed by the Sub Divisional Officer, Malegaon [**SDO**] dismissing the revision filed by the Petitioners under provisions of Section 23(2) of the Mamlatdar's Courts Act, 1906 and confirming order dated 23rd October 2023 passed by the Tehsildar, Malegaon.
2. I have heard Mr. Hire, learned counsel for the Petitioner, Mr. Patil, learned counsel appearing for the Respondent and Ms. Nadkarni, learned AGP for State.

3. After having considered submissions canvassed by the learned counsel appearing for the parties it appears that the concerned land has been sold to Respondent No.1 by some of the Petitioners vide registered sale-deed dated 3rd February 2005 in which there is specific covenant that the sale of the land was together with the access road from the lands of the Petitioners. Thus, existence of the access road to the land of the Petitioner is acknowledged in the sale-deed itself. It is sought to be contended that sale-deed dated 3rd February 2005 has been challenged before the Civil Court. If that is the case, order passed by the Tehsildar and SDO would obviously be subject to the decree that would be passed by the Civil Court. If the Petitioners get the covenant relating to right of way in the sale-deed set aside in the Civil Court, such decree would obviously prevail over the orders passed by Tehsildar and SDO, which are initially premised on very same covenant in the sale-deed.

4. Considering the peculiar facts and circumstances of the case, I am not inclined to interfere in the impugned orders on account of point that sought to be raised by Mr. Hire that the Plaint filed before the Tehsildar did not disclose cause of action and after taking objection, application for amendment was made for incorporating date of accrual of cause of action and that the Tehsildar proceeded to allow the Plaint without deciding the said application for amendment.

5. It is well settled principle of law that exercise of jurisdiction under Article 227 of the Constitution of India is corrective in nature and the High Court is not expected to correct every error of law. Considering the unique facts and circumstances of the case, where the land is sold with contractual covenant of access road, this Court does not appreciate conduct of Petitioners in obstructing said road. Tehsildar and SDO have rightly ensured that the access road leading to the land of the Respondent No.1 remains unobstructed. No interference is warranted in exercise of jurisdiction of this Court under Article 227 of the Constitution of India. Petition is accordingly rejected.

SANDEEP V. MARNE, J.

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