



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8068 OF 2025

Vikram Lahanu Kokate and Ors. ... Petitioners

V/s.

Sanjay Rajaram Sonawane and Ors. ... Respondents

Mr. Sachin Gite, for the petitioners.

Mr. Dilip Shinde, for the respondent nos. 1 to 4.

Ms. V.S. Nimbalkar, AGP, for the State/Respondent nos. 5 and 6.

CORAM : N.J. JAMADAR, J.

DATE : 11th AUGUST 2025

ORAL ORDER:

1. Heard the learned counsel for the petitioners.
2. The challenge in this petition is to an order dated 9th April 2025 passed by the Sub Divisional Officer in Revision Application No. 54 of 2021 whereby the Sub Divisional Officer was persuaded to allow the revision preferred by the respondent nos. 1 to 4 herein against a judgment and order passed by the Tahsildar on 2nd March 2021 under Section 5 of the Mamlatdar's Courts Act, 1906, in Vahivat Case No. 9 of 2020, thereby setting aside the said order passed by the Tahsildar.

3. The petitioners had filed Vahivat Case No. 9 of 2020 before the Tahsildar with the allegations that they were the holders of the land bearing Gat No. 293 and 296. The only access to their land was from the way situated on the northern side of Gat Nos. 250, 251 and 294 and the southern side of Gat Nos. 249 and 295. The said way eventually led to old Panchale Road.

4. The Tahsildar carried out a spot inspection on 22nd October 2020. The Tahsildar found that such road existed and the petitioners alleged that there was an obstruction to their access to the field through the said road.

5. By an order dated 2nd March 2021, the Tahsildar was persuaded to allow the application noting, inter alia, that the respondent nos. 4, 6, 7, 9, 10, 12 and 13, who were the holders of the lands bearing Gat Nos. 294, 250 and 251 conceded that such road did exist, and they were also using the said road.

6. Being aggrieved, the respondent nos. 1 to 4 preferred a revision under Section 23 of the Act, 1960. The Sub Divisional Officer, by impugned order, was persuaded to allow the revision observing, inter alia, that there was no proof of any obstruction to the said road.

Moreover, the suit before the Tahsildar was also bad for non-rejoinder of the other holders of the adjoining lands.

7. Being aggrieved, the petitioners have invoked the writ jurisdiction.

8. Mr. Gite, the learned counsel for the petitioners, submitted that the existence of the road has been established beyond the pale of controversy. Laying emphasis on the site inspection, panchnama and reply of the respondent nos. 4,6,7,9,10, 12 and 13, Mr. Gite submitted that the revisional authority was clearly in error in interfering with a well reasoned order passed by the Tahsildar based on objective material. The revisional authority also recorded that such road did exist. However, on a spacious ground that there was no proof of obstruction the petitioners were non -suited.

9. In opposition to this, Mr. Shinde, the learned counsel for the respondent nos. 1 to 4 submitted that, the map placed on record, prepared pursuant to the alleged site inspection, does not depict the correct position at the site. In fact, the Tahsildar had not at all visited the subject lands and carried out the site inspection.

10. Moreover, according to Mr. Shinde, the fact that the petitioners

and other agriculturists were granted a 33 ft. wide road pursuant to the order passed in previous proceedings under the Mamlatdar's Courts Act 1906 was not at all considered by the Tahsildar. In fact, the petitioners have a 33ft. wide road abutting their lands and are not at all required to pass through the disputed road.

11. The Court finds that the respondent nos. 1 to 4 had raised the aforesaid ground of availability of 33ft. wide road abutting the land of the petitioners in Para No. 7 of the reply to the suit filed by the petitioners. The authorities under the act have not at all adverted to the said aspect of the matter.

12. In any event, in the face of the categorical contention that the site inspection report was not prepared post inspection of the subject lands, the issue is required to be decided afresh by the Tahsildar after providing an effective opportunity of hearing to all the concerned parties and considering the impact of the earlier orders passed in the proceedings under the Mamlatdar's Courts Act, 1906 on the claim of the petitioners.

13. In the meanwhile, the position which has been obtaining since the order passed by the Tahsildar dated 2nd March 2021 deserves to be

maintained.

14. Hence, the following order:

O R D E R

- i. The petition stands partly allowed.
- ii. The impugned order as well as the order passed by the Tahsildar on 2nd March 2021 stand quashed and set aside.
- iii. Vahivat Case No. 9 of 2020 stands remitted back to the Tahsildar.
- iv. The Tahsildar shall cause the inspection of the subject lands after giving notice about the inspection to all the parties as well as the adjoining land holders.
- v. Thereafter, Tahsildar shall decide the application afresh after providing an effective opportunity of hearing and by recording reasons.
- vi. The parties shall appear before the Tahsildar on 25th August 2025.

vii. The parties shall be at liberty to file further affidavits and documents before the Tahsildar within a period of two weeks from the date scheduled for their appearance.

viii. In the meanwhile, the order passed by the Tahsildar on 2nd March 2021 shall continue to operate till the decision of the Vahivatdar Case No. 9 of 2020.

Petition disposed.

(N.J. JAMADAR, J)