

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

WRIT PETITION 8295 NO. OF 2025

Shankar Bhagwan Pawar & Ors. ... Petitioners
Versus
Mohan Shivaji Pawar & Ors. ... Respondents

Mr. Samir Kumbakoni a/w Rajat Dighe i/by Rajat Dighe for the
Petitioners.

Mrs. D. S. Deshmukh, AGP for Respondent Nos.8 and 9.

**CORAM: MANISH PITALE, J.
DATE : 25th JUNE 2025**

P.C. :

- . Heard learned counsel for the petitioners.
2. At the outset, the learned counsel for the petitioners seeks leave to amend, so as to add the Tehsildar and the Sub-Divisional Officer as party/respondents in the present petition. In the interest of justice, the prayer is granted. The petitioners are granted permission to amend the cause title to add the aforesaid respondents. The amendment shall be carried out within one week from today. Re-verification is dispensed with.
3. These proceedings arise out of an application filed under Section 5 of the Mamlatdar's Courts Act, 1906, by the contesting respondents, claiming that the petitioners have obstructed their right of way. The application was based on an assertion that such a way existed.

4. Although, the Tehsildar as well as the Sub-Divisional Officer have concurrently held against the petitioners, the documents on record show that there was an affidavit filed by the erstwhile owner asserting that there was no such existing way and in the cross-examination of one of the respondents, it was conceded that the deponent and other respondents were actually using another way from Gut No. 339.

5. These factors *prima facie* do not appear to have been taken into consideration in the proper perspective by the Tehsildar as well as the Sub-Divisional Officer, while passing the impugned order.

6. In view of the above, issue notice for final disposal, returnable on **13th August 2025**.

7. Ms. Deshmukh, learned AGP, waives notice on behalf of newly added respondent Nos. 8 and 9.

8. Additionally, the petitioner is directed to serve respondent Nos.1 to 7 by way of private service and to file an affidavit of service within three weeks from today.

9. In the meanwhile, there shall be ad-interim relief in terms of prayer clause (e).

MANISH PITALE, J.