

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10173 OF 2025

Narayan Balwant More & Ors ..Petitioners

Versus

Bhagwant Shankar More Since Deceased through ...Respondents
Legal Heirs & Ors

Mr. Rahul D. Motkari, with Manasi Pawar, for the Petitioner.
Ms. M.S. Srivastava, AGP, for the Respondent-State.

CORAM: N. J. JAMADAR, J.

DATED : 28th JULY 2025

ORDER:

1. This Petition under Article 227 of the Constitution of India, calls in question the legality, propriety and correctness of a judgment and order passed by the Sub Divisional Officer, Nashik, dated 12th April 2025, in Revision Application No. 333 of 2024, whereby the said Revision Application preferred by the Petitioners assailing the judgment and order in Vahivat Case No. 14 of 2022, came to be dismissed affirming the order passed by the Tahsildar, Nashik.

2. Respondent Nos. 1 to 3 filed an Application before the Tahsildar, Nashik under Section 5 of the Mamladar's Courts Act 1906 ("the Act of 1906") alleging that the Applicants had caused obstruction to a 12 feet wide road on the eastern side of Gat No. 97, which was available to

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access Gat No. 97 and Gat No.112, by erecting barbed wire fencing. The Tahshildar, Nashik, had a site inspection. It was noted that 12 feet wide road did exist, and the access to the portions of Gat No. 97 and Gat No. 112 through the said road was blocked by erecting barbed wire fencing.

3. By an order dated 13th August 2024, the Tahsildar allowed the said Application and directed the Respondents thereto to remove the obstruction and open the said road for access.

4. Being aggrieved, the Petitioners preferred Revision before the SDO. The latter found no error in the order passed by the Tahsildar. Thus, the Revision Application also came to be dismissed.

5. Mr. Motkari, the learned Counsel for the Petitioner, made an endeavour to persuade the Court to hold that the Respondents-Applicants have a direct access to their respective fields from Harsul-Girnare Road. Moreover, from the own showing of the Respondents-Applicants, the Application under Section 5 was filed beyond the period of limitation as the panchnama records that the road was blocked by erecting barbed wire fencing one and a half years prior to the site inspection.

6. Attention of the Court was also invited to a recital in the Sale Deed executed by Daggu Bhagwan Thete-Respondent No.4 and others, to bolster up the case that the Petitioners were entitled to exclusive

possession of the said road. Therefore, the Authorities were in error in passing the impugned orders.

7. I find it rather difficult to accede to the submission of Mr. Motkari. Evidently, the existence of the road could not be controverted. In fact, the Mutation Entry No. 562 records the existence of the road for the access to the fields bearing Gat No. 97 and Gat No. 112. The panchanamas of site inspection consistently record that the said access was blocked by erecting wire fencing. Thus both the facts, the existence of the road since the year 1990 and obstruction thereto at the instance of the Petitioners herein, were amply demonstrated. In this backdrop, the Authorities below were justified in exercising the powers under Act of 1906.

8. Nothing prevents the Petitioners from establishing their exclusive title to the said road before the Civil Court.

9. In these circumstances, no interference is warranted in the impugned order in exercise of the supervisory jurisdiction.

10. Hence, the Petition stands dismissed.

[N. J. JAMADAR, J.]