



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.415/2025

Shri Shahu Maharaj Bahuuddeshiya Magasvargiya Sanstha, Patur .vs. Vijaya Manohar
Dhokane and Others.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. H. R. Gadhia, Advocate for petitioner.
Mr. I. Charlewar, Advocate for respondent Nos. 1, 3 to 14.
Mr. K. R. Lulay, A.G.P. for respondent Nos. 16 and 17.

CORAM : ANIL L. PANSARE, J.

DATE : MARCH 5, 2025

On 23.01.2025, following order was passed.

“The contention is that without giving opportunity to lead evidence and also of hearing, the Mamlatdar has proceeded to decide the suit filed by respondent nos. 1 to 15. The Sub-Divisional Officer also failed to consider this vital aspect of non-adherence to the principles of natural justice.

2] Issue notice to the respondents returnable on 6/2/2025.

3] The learned A.G.P. waives notice for respondent nos. 16 and 17.

4] Office objections shall be removed before the returnable date failing which the petition shall stand dismissed without further reference to the Court.”

2. Counsel for the petitioner has tendered across the bar certified copy of roznama of the proceedings before respondent No.16 – Tahsildar. I have gone through the Roznama. The contentions put forth by the petitioner will find support, if Roznama of last three dates is looked into.

3. Roznama indicates that on 04.10.2022, none was present for the parties and the matter was fixed for 17.10.2022 for spot inspection report. On 17.10.2022, respondent No.16 was on tour and, therefore, the matter was fixed for 21.10.2022. However, on 31.10.2022, respondent No.16 passed final order without putting anyone to notice. In other words, none of the parties were heard before passing final order. That apart, it appears that the spot inspection report was filed on 21.10.2022. The said fact has been not reflected in Roznama nor were the parties given opportunity to comment upon the report. It is also evident from Roznama that opportunity to lead evidence was not given to the petitioner. Thus, there is substance in the argument of the petitioner that opportunity, as required under law, has been not afforded to the petitioner.

4. Learned A.G.P. as also counsel appearing for respondent Nos.1 to 14 could not point out anything contrary to what has been mentioned in Roznama maintained by Tahsildar.

5. Thus, respondent No.16 failed to give opportunity to the petitioner to lead evidence as also of hearing and further passed an order when the matter was not even fixed for judgment/order. This aspect, though argued by the petitioner before respondent No.17 – Sub Divisional Officer, he ignored this vital aspect of defiance of principle of natural justice.

6. That being so, the order passed by Sub Divisional Officer is liable to be quashed and set aside. Accordingly order dated 16.12.2024 passed by respondent No.17-Sub Divisional Officer, Balapur in Revision Application No.MCA-23/Dry Patur-1/09/2022-2023 (q-Qjcourts No.119/2022) is quashed and set aside. Since the order of Tahsildar has been merged into the order passed by the Sub Divisional Officer, there appears no reason to record setting aside

Tahsildar's order. The matter is accordingly remanded back to Tahsildar to consider it afresh, in accordance with law and what has been stated in the body of order.

7. Parties shall appear before Tahsildar on 10.03.2025.

8. The writ petition is disposed of in the above terms. No orders as to costs.

(Anil L. Pansare, J.)

Kahale