



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

WRIT PETITION NO.1027/2023

Narayan s/o Deorao Sarode and others

...Versus...

Deputy Collector, Murtizapur, Barshitakli, District Akola and others

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

Court's or Judge's orders

Mr. A.M. Tirukh, Advocate for petitioners
Mr. S.B. Bissa, AGP for respondent Nos.1 and 2
Mr. P.S. Tiwari, Advocate for respondent No.3

CORAM : ROHIT W. JOSHI, J.

DATE : 16/09/2025

1. The present petition takes an exception to the concurrent orders dated 19/05/2022, passed by the learned Mamlatdar, directing the petitioners to remove obstruction on the suit road and 06/12/2022, passed by the learned Sub Divisional Officer, rejecting the revision preferred by the petitioners challenging the said order.

2. The learned Advocate for the petitioners has made following three submissions in order to assail the said orders.

(i) The plaint is not filed in accordance with Section 7 since contents thereof are not supported by verification and/or affirmation/affidavit.

(ii) The Mamlatdar has not visited the spot as directed by the revisional authority in the earlier round of litigation vide order dated 18/08/2021.

(iii) Respondent Nos.3 and 4, the original plaintiffs have alternate way for approaching their land.

3. So far as the first contention is concerned, perusal of the plaint indicates that the plaint discloses all the relevant facts as are enumerated in Clauses (a) to (f) of Section 7 of the Mamlatdar's Courts Act, 1906. The provision does not state that the plaint should be supported by verification or affirmation/affidavit. Section 9 of the Act provides that where particulars specified in Section 7 are not mentioned in the plaint, the Mamlatdar can examine the plaintiff on oath and ascertain the particulars specified in Section 7 of the Act. Section 10 states that then a plaint is dealt with in the manner prescribed under Section 9, the Mamlatdar shall require the plaintiff to subscribe and verify the plaint. Since necessary ingredients of Section 7 are made out Section 9 is not attracted. Since Section 9 is not attracted, the procedure prescribed under Section 10 is also not required to be followed. The judgment of this Court in the matter of ***Gaurakshan Sansthan, Murtizapur Vs. State of Maharashtra and others***, reported in ***2019 (3) ALL MR 849*** relied upon by the petitioners does help the petitioners, inasmuch as in the said case it is observed that the plaint was not filed in consonance with Section 7 of the Act and therefore, the Mamlatdar was required to make compliance of Sections 9 and 10 of the Act before proceedings with merits of the matter. With respect to the ratio of the said judgment will not apply in the present case since the plaint is filed in accordance with Section 7 of the Act. The first contention raised by the learned Advocate for the petitioners is therefore rejected.

4. As regards the second contention that the Mamlatdar did not personally visit the spot for inspection,

perusal of letter dated 28/02/2023 issued by the Mamlatdar to the plaintiff indicates that the Mamlatdar was personally present during the course of spot inspection on 27/01/2022 along with Revenue Inspector and Talathi. The impugned order passed by the learned Mamlatdar also records the fact that he was personally present during the course of spot inspection. In view of the above, second contention raised by the learned Advocate for the petitioners is liable to be rejected.

5. As regards the third contention regarding existence of alternate way, learned Advocate for the respondent Nos.3 and 4 has rightly placed reliance on the judgment of this Court in the matter of *Shrikrishna Sheshrao Dane and another Vs. Vasant Ramrao Tayade and another*, reported in *2018 (2) Mh.L.J. 98*, which holds that the existence of alternate way is not a ground to assail the order directing removal of obstruction on a way passed under Section 5 of the Mamlatdar's Courts Act, 1906.

6. In view of the aforesaid, the writ petition stands dismissed. No order as to costs.

(ROHIT W. JOSHI, J.)