



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

WRIT PETITION NO. 4287 OF 2019

(Smt. Asha w/o Purushottam Dudhe and another vs. Devrao Harinarayan Dudhe and others)

*Office Notes, Office Memorandum of Coram,
appearances, Court's orders or the directions,
and Registrar's orders.*

Court's or Judge's order

Mr. A.B.Mirza, Advocate for petitioners.
Mr. V.B.Bhise, Advocate for respondent No.1.
Mr. A.A.Madiwale, AGP for respondent Nos.2 and 3.

CORAM : SIDDHESHWAR S. THOMBRE, J.
NOVEMBER 11, 2025

- 1) Heard learned counsel for the respective parties.
- 2) Present petition is directed against the order dated 31/01/2017 passed by the Naib Tahsildar in MCA-5/Akoli Jahangir/04/2016-17 under Section 21 of Mamlatdar's Courts Act, 1906. The said order was challenged before the Sub-Divisional Officer (SDO), who by order dated 12/02/2019 confirmed the order passed by the Naib Tahsildar.
- 3) Learned counsel for the petitioner vehemently submits that the application which was filed by the respondent No.1 before the Mamlatdar's Court under Section 5 of the Mamlatdar's Courts Act was not in the prescribed form of the plaint, but was merely a simple application.
- 4) He further submits that even in the said application there was no specific averments made as to when the cause of action arose. According to him, there was no cause of action to file such an application before the Naib Tahsildar. He further submits that while conducting the spot inspection, no prior notice was given, and therefore, the inspection was conducted

behind his back. On these grounds, he submits that the order passed by both the authorities are liable to be set aside.

5) Per contra, the learned counsel for the respondent submits that there was obstruction caused at the hands of the petitioner. Even in the revision before the SDO, the petitioner himself had specifically stated that on 15/07/2015, there was an obstruction. Considering these specific averments, the authorities conducted a spot inspection, after which path way was found obstructed. It was further pointed out that despite the order passed by the Naib Tahsildar, the obstruction was not removed and it had to be cleared with the Police aid. Therefore, learned counsel for respondent No.1 and learned Assistant Government Pleader supports the orders passed by the Naib Tahsildar and SDO and prays to dismiss the present writ petition.

6) I have gone through the orders passed by the Naib Tahsildar and SDO. It seems that the application was filed by the respondent No.1 contending that the path way from Survey No.221 was in existence for more than 50 years, which was suddenly obstructed and prevented the respondent No.1 from accessing his agricultural land. Pursuant to the said application, the Naib Tahsildar directed the Revenue Authorities to conduct an enquiry and a spot inspection. The spot inspection report revealed that the path way was indeed obstructed at the hands of the present petitioner. Therefore, after relying upon the spot inspection report, the Naib Tahsildar by exercising powers under Mamlatdar's Courts Act passed an order directing the path way to be cleared. The SDO also conducted a spot inspection. Both the authorities have concurrently held that there was obstruction at the hands of the petitioner.

7) In view thereof, considering the totality of the facts of the case, I find no perversity in the findings of the orders passed by both the authorities. Therefore, I do not find any reason to interfere with the said orders under Article 227 of the Constitution of India. Hence, the petition is dismissed. No order as to costs.

(SIDDHESHWAR S. THOMBRE, J.)