



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

WRIT PETITION NO.3084 OF 2020

1. Ashok S/o Laxmanrao Sawarkar
Aged 64 years, Occ: Cultivation
2. Sau. Shalini W/o Ashokrao Sawarkar
Aged 54 years, Occ: Cultivation
3. Aniket S/o Ashokrao Sawarkar
Aged 34 years, Occ: Cultivation

All the Petitioners No.1 to 3 are
R/o Loni, Tah. Warud, Dist. Amravati.
Mobile No.8055216534, 9970994044

...PETITIONERS
(Ori. Non-applicants)

...VERSUS...

1. State of Maharashtra
Through Secretary, Revenue Department
Mantralaya, Mumbai-32.
2. The Sub Divisional Officer, Morshi
Tahsil Office Morshi
Tah. Morshi, Dist. Amravati.
3. The Naib Tahsildar, Warud,
Tahsil Office Warud,
Tah. Warud, Dist. Amravati.
4. Smt. Anuprita (wrongly mentioned as Anupriti in
Application filed before R-3) Wd/o Rajendra
Pawade, Aged 40 years, Occ: Cultivator.
5. Bhavana D/o Rajendra Pawade
Aged 36 years, Occ: Cultivation
6. Aniket S/o Rajendra Pawade
Aged 30 years, Occ: Cultivation

All the respondents No.4 to 6
are R/o Palaswada, Tah. Warud,
Dist. Amravati.

...RESPONDENTS

(Resp. No.4 to 6 orig. applicants)

Shri Sudhir Malode, Advocate for petitioners.
Shri H.D. Dubey, AGP for respondent nos.1 to 3.
Shri J.B. Kasat, Advocate for respondent No.6.

CORAM:- M.W. CHANDWANI, J.
DATED :- 22.09.2025

ORAL JUDGMENT:

1. The petition challenges the order passed by the Tahsildar which was confirmed by the Sub-Divisional Officer, Morshi whereby, the petitioners were directed not to obstruct the way from the South boundary their of field of Gat No.23/1 for accessing the field of Gat No.23/3 which belongs to respondent nos.4 to 6.

2. Respondent nos.4 to 6 had applied before the Tahsildar, Warud under the Mamlatdar's Courts Act, 1906 for directing the petitioners not to obstruct the way which they were using for approaching their field of Gat No.23/3. The contention was that on 20.06.2011, when respondent no.4 and one Vivek Pawade tried to take his bullock cart from the south boundary of Gat No.23/1, the petitioners objected. The Tahsildar, by relying on the report of the Talathi and the evidence led before it, directed

the petitioners not to obstruct the way in question. An unsuccessful attempt was made by way of Revision before the Sub-Divisional Officer. Feeling aggrieved with the rejection of the revision, the present writ petition came to be filed.

3. Having heard the learned counsels for the petitioners as well as the respondents and having gone through the orders impugned, it transpires that the petitioners own Gat No.23/1 which is facing towards the Tar road. Towards north side of boundary is the land of Gat no.23/3, which belongs to respondent nos.4 to 6. It also transpires that the land of Gat No.23/3 is not abutting to the road. The claim of respondent nos.4 to 6 is that they are using the boundary of Gat No.23/1 and 34/1, 34/1A as a way to access to their field. The report of the Talathi shows that initially, Gat no.23 was owned by one person and thereafter, it was sold to three persons including the petitioners and respondent nos.4 to 6 as well as one other purchaser. It has also been reported by the Talathi in its report that when enquiry was conducted, he found that the boundary between Gat No.23/1 and 34/1 was being used. Relying on the report of the Talathi as well as the evidence led before the Tahsildar, he passed the impugned order. It has been also mentioned in the order that though, the witnesses

of the petitioner filed an affidavit but they did not come forward for cross-examination by respondent nos.4 to 6. The revisional authority (Sub-Divisional Officer) has also relied on the report of the Talathi and concurred with the findings of the Tahsildar.

4. The learned counsel for the petitioners submitted that orange trees were planted on the way which were three years old on the date of cross-examination by the petitioners to respondent nos.4 to 6, so there could be no occasion for the petitioners to obstruct the way because there is no way to take the bullock cart. However, in view of the report filed by the Talathi, the evidence led by respondent no.4 and the absence of the petitioners witnesses, the Tahsildar has rightly directed petitioners not to obstruct the way of respondent nos.4 to 6 after considering the material available on record.

5. Needless to mention that, the order passed by the Tahsildar under the Mamlatdar's Courts Act is a temporary arrangement, the parties can file a civil suit before the competent Court if they have any right to establish their rival contentions. The order of the Tahsildar is subject to the order passed by the civil Court. In view of this legal position, no interference is required in the orders impugned. Needless to mention that, the

observations made by the authorities below and confirmed by this Court are prima facie and subject to determination of rights by the civil Court. In view of the above, the petition is disposed of. No order as to costs.

JUDGE

Wagh