



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

WRIT PETITION NO.4958/2023

Ganesh Sakharam Narwade and Ors. Vs. The Deputy Collector (Revenue) Washim,
Dist. Washim 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. R. D. Karode, Advocate for petitioners.

Mr. K. R. Lulay, A.G.P. for respondent Nos. 1 and 2.

Mr. U. M. Aurangabadkar, Advocate for respondent No.3.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 16, 2025

The petitioners have assailed order dated 20.02.2019 passed by respondent No.1 – Deputy Collector, Washim in Revision Case No. MCA-5/Mop/73/2017-18.

2. Having heard Mr. R. D. Karode, counsel for petitioners, Mr. K. R. Lulay, A.G.P. for respondent Nos.1 and 2 and Mr. U. M. Aurangabadkar, counsel for respondent No.3, it transpires that the petitioners approached the Mamlatdar under Section 5 of the Mamlatdars Courts Act, 1906 (for short the, “Act of 1906”), with a request to restrain respondent No.3 from obstructing the right of way to approach their field. Respondent No.2, however, has treated this request to be a prayer to remove impediment on the pandhan road to access the respondent’s field. The Mamlatdar has himself inspected the spot and directed respondent No.3 to let the road remain unobstructed and further to not create impediment in the road.

3. This order was assailed by respondent No.3 before respondent No.1 who found that there is nothing in the application as regards the nature of impediment, the exact period of impediment, the exact location of the impediment, the details of survey number etc. Respondent No.1 further noted that despite such discrepancy in the application, the Mamlatdar, without issuing notice to respondent

No.3, inspected the spot. Respondent No.1 further noted that there is no proof of service of notice to respondent No.3 and, accordingly, found fault in the remark made by the Mamlatdar that respondent No.3 refused to sign the spot inspection report. Respondent No.1 further noted that the pandhan road runs between Gat Nos. 428 and 429 and as per record of rights the Mr. Baban and Mr. Vishwnath Kshirsagar are the owners of the said land. These two persons were not even made party to the proceedings.

4. Nothing aforesaid discrepancies, respondent No.1 quashed and set aside the order dated 21.06.2018 passed by respondent No.2 - Mamlatdar.

5. I have gone through the application moved by the petitioner under Section 5 of the Act of 1906. Apart from the fact that the application is not in consonance with Section 5 of the Act of 1906 and failure of Mamlatdar to take corrective measures in terms of Sections 6, 7 and 8 of the Act of 1906, the averments in the application are such that the petitioners have blamed respondent No.3 of not permitting them to lay Murum on the pandhan road. There is absolutely nothing in the application as regards any impediment made by respondent No.3.

6. That being so, respondent No.1 correctly took note of the aforesaid facts to find fault in the order passed by respondent No.2. The order impugned appears to be in consonance with the material placed before respondent No.1. No interference, therefore, is called for in the writ jurisdiction. The writ petition is dismissed accordingly. No order as to costs.

(Anil L. Pansare, J.)