

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

WRIT PETITION NO.5805/2024

Prayagbai Prabhakar Kuhite

Vs.

Dwarkabai Shivaji Wable and others

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

Court's or Judge's orders

Shri A.S. Dhote, Advocate for petitioner
Shri H.D. Futane, AGP for respondent Nos.2 and 3

CORAM : SMT. M.S. JAWALKAR, J.

DATED : 15/01/2025

The present petition is filed challenging the order dated 10.11.2022 passed by the Sub Divisional Officer in Revision Case No. M.C. Act-5 / Ajisapur / 29/2021-22 (Sau. Prayagbai Kuhite Vs. Dwarkabai Wable and two others), to the extent of remand of the matter to the respondent No.3- Naib Tahsildar for fresh decision.

2. It is contended that petitioner is the owner of land admeasuring 0.61 HR in Survey No.8/2, mouza Khurampur, Tah. Lonar, District Buldhana. The land of respondent No.1 is situated at southern side of the land of petitioner. There is no right of way or road through the land of petitioner available to the respondent No.1 to approach her field.

3. The respondents filed application under Section 143 of the Maharashtra Land Revenue Code for grant of new road. The Naib Tahsildar decided the

said application as per Section 5(2) of the Mamlatdar Court's Act and allowed the application. The said order dated 22.12.2021 came to be challenged by the petitioner before the Sub Divisional Officer.

4. The Sub Divisional Officer after coming to the conclusion recorded the finding that the order passed by the Naib Tahsildar is patently illegally and the Tahsildar erred in deciding the application under the Mamlatdar Court's Act by not appreciated the evidence on record. Therefore, the said order was set aside by the Sub Divisional Officer and fresh inquiry was directed.

5. It is contended by the learned Counsel for petitioner that the said inquiry was directed to be conducted by the Naib Tahsildar, Lonar, who transmitted to the same officer who has conducted the earlier inquiry.

6. In my considered opinion, there is no substance in this ground. At the most, it can be further clarified that the Naib Tahsildar, who is conducting fresh inquiry shall conduct the same as per Section 143 of the MLR Code and as per conclusion recorded by the Sub Divisional Officer in its order dated 10.11.2022.

7. As such, Writ Petition stands dismissed as having no merit.

8. The respondent No.3 to act as per the conclusion drawn by the Sub Divisional Officer and decide the application as per Section 143 of the MLR Code.

9. It is made clear that the parties are at liberty to raise all objections available in law before the authority.

10. Learned AGP shall communicate this order to respondent No.3.

JUDGE

R.S. Sahare