



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

WRIT PETITION NO. 4835 OF 2024

- 1) Asha Krushnarao Bodhale
Aged about 62 years, Occ.-Agriculturist,
- 2) Rahul Pandurang Bodhale,
Aged about 25 years, Occ.-Agriculturist,
- 3) Kishor Pandurang Bodhale,
Aged about 28 years, Occ.-Agriculturist,
- 4) Hanuman Pandurang Bodhale,
Aged about 32 years, Occ.-Agriculturist,
All R/o. Warud (Validadpur)
Taluka Babulgaon, District Yavatmal.

.... **PETITIONERS**

// **VERSUS** //

- 1) The Sub-Divisional Officer
at Yavatmal.
- 2) The Tahsildar, Babulgaon,
District Yavatmal.
- 3) Smt. Suvarna Naresh Tonge,
Aged about 42 years, Occ.-Agriculturist,
- 4) Sanjay Annaji Parkhe,
Aged about 38 years, Occ.-Agriculturist,
- 5) Atitosh Wamanrao Milmlile,
Aged about 32 years, Occ.-Agriculturist,
- 6) Waman Deorao Milmlile,
Aged about 60 years, Occ.-Agriculturist,
- 7) Vaibhav Ruprao Milmlile,
Aged about 24 years, Occ.-Agriculturist,
- 8) Ujjwal Dhanshyam Milmlile,
Aged about 42 years, Occ.-Agriculturist,
- 9) Ranjit Pundlikrao Bodhale,
Aged about 54 years, Occ.-Agriculturist,

- 10) Rajesh Pundlikrao Bodhale,
Aged about 50 years, Occ.-Agriculturist,
- 11) Smt. Kalpana Sanjay Bodhale,
Aged about 50 years, Occ.-Agriculturist,
- 12) Smt. Asha Sharad Bodhale,
Aged about 55 years, Occ.-Agriculturist,

All R/o. Warud (Validadpur)
Taluka Babulgaon, District Yavatmal.

.... **RESPONDENTS**

WITH

WRIT PETITION NO. 4876 OF 2024

- 1) Ranjit Pundlikrao Bodhale,
Aged about 54 years, Occ.-Agriculturist,
- 2) Rajesh Pundlikrao Bodhale,
Aged about 50 years, Occ.-Agriculturist,
- 3) Smt. Kalpana Sanjay Bodhale,
Aged about 50 years, Occ.-Agriculturist,
- 4) Smt. Asha Sharad Bodhale,
Aged about 55 years, Occ.-Agriculturist,

All R/o. Warud (Validadpur)
Taluka Babulgaon, District Yavatmal.

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Aged about 32 years, Occ.-Agriculturist,
- 6) Waman Deorao Milmlie,
Aged about 60 years, Occ.-Agriculturist,

7) Vaibhav Ruprao Milmlile,
Aged about 24 years, Occ.-Agriculturist,

8) Ujjwal Dhanshyam Milmlile,
Aged about 42 years, Occ.-Agriculturist,

All R/o. Warud (Validadpur)

Taluka Babulgaon, District Yavatmal.

.... **RESPONDENTS**

In both Writ Petitions :

Mr. S. O. Ahmed, Advocate for the Petitioners.

Mr. S. C. Joshi, Assistant Government Pleader for the
Respondent Nos.1 and 2.

Mr. V. D. Darne, Advocate for the Respondent Nos.3, 5 to 8.

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

DATE : 04th FEBRUARY, 2025.

ORAL JUDGMENT :

1. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel appearing for the parties.

2. Both these petitions are filed being aggrieved by the order dated 11.06.2024, passed by the learned Sub-Divisional Officer, Yavatmal – respondent No.1 in Revision Application No.4/MCA-5/2023-2024 as well as the order dated 13.09.2023 passed by the Mamlatdar Court, Tahsildar, Babulgaon, District Yavatmal – respondent No.2 in Revenue Case No.2/MCA-5/2022-2023.

3. As both the matters are involving a similar issue therefore, they are taken up to decide together. Writ Petition No.4835/2024 is taken as leading case for consideration of facts and other material.

4. In Writ Petition No.4835/2024 the ground raised is that necessary parties have not added before the learned Mamlatdar Court and also lower Appellate Court. The petitioners herein are the owners of field Gat No.21, respondent Nos.3 to 8 are owners of the field Gat Nos.23/1, 23/4, 23/5, 24 and 25, respondent Nos.9 to 12 are owners of the field Gat Nos.22/1, 22/2, 22/4, 22/5 and 28/1, situated at Mouza Renukapur, Tahsil Babulgaon, District Yavatmal. The respondent No.9 is the owner of field Gat No.22/4, respondent No.10 is the owner of field Gat Nos.22/1 and 22/5, respondent No.11 is the owner of field Gat No.22/2 and respondent No.12 is the owner of field Gat No.28/1. The respondent Nos.3 to 8 filed an Application bearing No.02/2023 before the Mamlatdar Court/Tahsildar, Babulgaon – respondent No.2, against the respondent Nos.9 to 12 and contended that respondent Nos.9 to 12 have obstructed the approach way from their lands by digging soil to the approach way of the fields of respondent Nos.3 to 8. They were using from Gat No.21 which is adjacent to the tar road.

5. It is submitted that though the petitioners are owners of the field Gat No.21, they were not made party by the respondent Nos.3 to 8 in the said Application. Though, there was Spot Inspection conducted, no notice was given to the present petitioners to remain present. After recording evidence, the Tahsildar – respondent No.2, passed the order dated 13.09.2023 thereby allowed the Application

filed by respondent Nos.3 to 8. The said order came to be challenged by respondent Nos.9 to 12 before respondent No.1 – Sub-Divisional Officer, Yavatmal vide Revision bearing No.4/MCA-5/2023-2024. It is alleged that even the Sub-Divisional Officer has not verified the record and upheld the order passed by the Mamlatdar Court.

6. The learned Counsel for the respondents opposed the Petition on the ground that one Ranjit Pundlikrao Bodhale also filed a Revision along with Smt. Aasha Sharad Bodhale being a 'Karta' of the family. However, the facts remains that the field Gat No.21 is in the name of Smt. Aasha Krushnarao Bodhale and not Smt. Aasha Sharad Bodhale. As such, no orders can be passed against the owners of field Gat No.21, without granting opportunity of hearing.

7. I have perused the documents placed on record along with petition. On perusal of the Application bearing No.02/2023 dated 30.05.2023 (page No.47 of the Petition), the Gat No.21 shown by the applicant against the name of non-applicant Aasha Sharad Bodhale. The non-applicant Nos.1 to 4 filed Revision bearing No.4/MCA-5/2023-2024 before the Sub-Divisional Officer, Yavatmal, however the petitioners herein was not party to the said proceedings also.

8. The learned Counsel for the petitioners drawn my attention to the 'Annexure-A' (page 35 of the Petition), which is 7/12 Extract

wherein name of the petitioner – Aasha Krushnarao Bodhale is appearing and Gat number shown as 21, whereas 7/12 Extract produced at (page No.45 of the Petition), shows name of Aasha Sharadrao Bodhale (party to the proceeding before the Tahsildar as well as Sub-Divisional Officer, Yavatmal) shown holding Gat No.28/1. As such, though the first name and surname is similar, the middle names are different, Gat numbers are also different. Without hearing the owners of field Gat No.21, it appears that order came to be passed by the Mamlatdar Court/Tahsildar and held that non-applicants shall remove the obstructions on the way having field Gat Nos.21 and 22. The said order is confirmed by the Sub-Divisional Officer, Yavatmal. However, neither the spot inspection nor before the Authorities the correct position was brought.

9. As such, the order came to be passed behind back of the owners of field Gat No.21 and, therefore, both the orders deserves to be quashed and set aside.

10. The Writ Petition is **allowed**.

11. The order dated 11.06.2024, passed by the learned Sub-Divisional Officer, Yavatmal – respondent No.1 in Revision Application No.4/MCA-5/2023-2024 as well as the order dated 13.09.2023 passed by the Mamlatdar Court, Tahsildar, Babulgaon – respondent No.2 in

Revenue Case No.2/MCA-5/2022-2023 is hereby quashed and set aside.

12. The matter is remitted back to the Tahsildar, Babulgaon – respondent No.2 for consideration it afresh by granting opportunity to the owners of field Gat No.21.

13. The learned Tahsildar, Babulgaon, if necessary may also direct fresh inspection after verifying the record of 7/12 Extracts and above documents.

14. The parties to appear before the Tahsildar, Babulgaon – respondent No.2 on **17.02.2025** at **11.00 am**.

The Writ Petition No.4835/2024 stands disposed of in the above terms. No costs.

WRIT PETITION NO. 4876 OF 2024

In view of order passed in Writ Petition No.4835/2024, this Writ Petition No.4876/2024 does not survive and disposed of accordingly.

(SMT. M.S. JAWALKAR, J.)