



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

WRIT PETITION NO.678 OF 2023

PETITIONER

Ori. Petitioner

: Shri Nimbaji s/o Balu Kolkar
- Aged about 65 Yrs. Occ-Farmer
R/o Karanja, Tq. Karanja, Dist Washim,

..VERSUS..

RESPONDENTS

Ori. Respondents

- :-**
- 1 The Sub-Divisional officer, Karanja, Tq. Karanja, Dist. Washim,
 - 2 Mamlatdar-Cum-Tahasildar
Karanja, Tq. Karanja, Dist. Washim,
 - 3 Shri Mohan s/o Mahadevrao Gadhave,
r/o Poha, Karanja, Tq. Karanja, Dist.
Washim,
 - 4 Bhojraj Nagoji Thomare,
aged about 70 Yrs Occ. Agriculturist,
r/o Shivnagar, Karanja, Tq. Karanja
Dist. Washim
 - 5 Amay Gajanan Dhokane
aged about 12 Yrs. Minor represented
by guardian father Gajanan Rajaram
Dhokane, r/o Poha, Tq. Karanja Dist.
Washim,
 - 6 Vinod Himmatrao Chavan
Aged about 40 Yrs. Occ. Agriculturist
r/o Poha Tq. Karanja Dist. Washim,
 - 7 Gajanan Sadashiv Meshram
aged-adult, Occ. Agriculturist
r/o Gautam Nagar, Karanja,
Tq. Karanja Dist. Washim,

- 8 Saraswati Rajaram Dhokane,
aged about 70 Yrs. Occ. Household
r/o Poha Tq. Karanja Dist. Washim,
- 9 Sau. Sunita Mohan Dhadve,
aged about 55 Yrs. Occ. Household
r/o Poha Tq. Karanja, Dist. Washim,
- 10 Rambhau Bhima Komrekar,
aged about 80 Yrs. Occ. Agriculturist,
r/o Poha Tq. Karanja Dist. Washim,
- 11 Shantabai Rambhau Komrekar, aged
about 70 Yrs. Occ. House hold
r/o Poha Tq. Karanja Dist. Washim,
- 12 Talathi mouje Poha Tq. Karanja Dist.
Washim,
- 13 Circle Inspector mouje poha Tq.
Karanja Dist. washim

Mr.Z.Z. Haq, Advocate for Petitioner.

Mrs. M. S. Naik, AGP for respondent Nos.1,2 and 13.

Mr. N. D. Borkar, Advocate for the Respondent Nos. 3 to 5, 8 to 11.

CORAM : ROHIT W. JOSHI, J.

DATE : 03.11.2025

ORAL JUDGMENT :

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

2) The present petition takes exception to the concurrent orders passed under the provisions of the Mamlatdars' Courts Act, 1906, whereby the petitioner was directed to remove obstruction created over the road passing over field boundary (*dhura*) of lands bearing Survey Nos.110/2 and 117/4 owned by him.

3) Mr. Haq, learned Advocate for the petitioner, contends that the application was not filed in the prescribed form and, therefore, cognizance of the same could not have been taken, the two sons of the petitioner who are co-owners of the lands alongwith him were not arrayed as respondents in the proceedings before the learned Mamlatdar and, therefore, the application was liable to be rejected for non-joinder of necessary parties and that going by the spot inspection report, it is apparent that the road in question was not in existence and, therefore, the impugned orders are unsustainable and are liable to be quashed.

4) Perusal of the application will demonstrate that the applicants have stated that there was a road in existence between the two survey numbers. They have also stated that

the petitioner/non-applicant had destroyed the said road and accordingly created obstruction to its user.

5) The contention of Mr. Haq that the application was liable to be rejected since it was not supported by a statement of verification/affirmation is liable to be rejected in view of Section 7 of the Act. Perusal of Section 7 will demonstrate that the applicants are required to mention the names and other particulars of the parties, the nature of impediment created, the nature of relief sought and the particulars of cause of action. The provision does not contemplate that the contents of the application must be verified or affirmed. When an application is not filed in accordance with Section 7, the Mamlatdar is under an obligation to afford opportunity to the applicants to cure the defect. In such situation, the Mamlatdar is required to record verification of the contents of the application from the applicants. Since the application discloses the relevant particulars as contemplated under Section 7, verification of contents of application is not required. The first contention is liable to be rejected.

6) As regards the second contention with respect to non-joinder, perusal of the written statement will demonstrate that this objection was not raised in the written statement. It is also not in dispute that the petitioner is father who owns both agricultural lands in question alongwith his sons. In the considered opinion of this Court, non-joinder of the other two co-owners, who are sons of the petitioner has not caused any prejudice to the petitioner. The argument is technical in nature and, therefore, cannot be a ground for setting aside concurrent orders passed by the authorities.

7) As regards the third contention, the existence of road cannot be disputed since in the earlier round of litigation in the year 1992 itself existence of the road was duly proved. The Revenue Inspector has observed in the spot inspection report that the petitioner had by means of a tractor and other equipment, destroyed the road in order to merge the two fields in question bearing nos.110/2 and 117/4. The authorities have accepted the said report. The findings recorded by the authorities is a finding of fact. This

finding of fact is duly supported by order passed in earlier round of litigation.

8) In view of the above, the third contention that there is no evidence to establish the existence of road and destruction thereof by the petitioner is also liable to be rejected. For the reasons aforesaid no case for interference is made out. The writ petition stands **dismissed**. Rule is discharged, with no order as to costs.

(ROHIT W. JOSHI, J.)

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