



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

WRIT PETITION NO.6041/2023

Mr. Taresh s/o Ramdas Kamble

...Versus...

Mr. Vishnudas S/o Bhaurao Telrandhe and others

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

Court's or Judge's orders

Mr. S.B. Tiwari & Mr. PB. Mishra, Advocates for petitioner
Mr. A.G. Hunge, Advocate for respondent No.1
Mrs. D.I. Charlewar, AGP for respondent Nos.2 and 3

CORAM : ROHIT W. JOSHI, J.

DATE : 24/12/2025

1. The present petition is filed challenging the judgment and order dated 31/05/2023, passed by the Sub Divisional Officer, Umred in exercise of powers of revision under Section 23 Sub Section 2 of the Mamlatdar's Courts Act, 1906, whereby the proceedings filed before the Mamlatdar for removal of obstruction of way is remanded back to the Mamlatdar for deciding the application afresh, particularly for recording a finding on the point of limitation.

2. Learned Advocate for the petitioner contends that the cause of action for filing the proceedings under Section 5 of arose on 22/08/2021 and that the application was filed on 17/02/2022, which is within the prescribed period of limitation. He draws attention to cross-examination of respondent before the Mamlatdar to contend that the fact that the cause of action arose on 22/08/2021 cannot be disputed. He contends that there is sufficient material on record in order

to enable the learned Sub Divisional Officer to decide the entire controversy on its merits and that there was no justification for remanding the matter to the learned Mamlatdar. The learned Advocate places reliance on the judgment dated 05/05/2025 passed by this Court in Writ Petition No.5672/2025, wherein while dealing with an order of remand passed under Section 23 (2) of the Mamlatdar's Courts Act, this Court has held that in the absence of any compelling legal necessity, order of remand should not be passed, since it leads to avoidable delay in the resolution of disputes.

3. Learned Advocate for respondent No.1 and learned Assistant Government for respondent No.2 support the order and contend that although there may be evidence on record to record a finding on the point of limitation, the learned Mamlatdar has not recorded any finding on the aspect of limitation and therefore, the learned Sub Divisional Officer was fully justified in remanding the matter to the learned Mamlatdar for deciding the issue of limitation.

4. Having heard the respective submissions, this Court is of the opinion that in the facts of the present case there is hardly any dispute with respect to the date, on which cause of action has arisen. The date of filing of application is a matter of record. In the circumstances, learned Sub Divisional Officer was not justified in remanding the matter solely on the ground that question of limitation is not answered by the learned Mamlatdar while deciding the proceedings under Section 5.

5. Learned Advocate for the petitioner/original plaintiff states that he does not wish to give additional evidence and is ready for adjudication of the revision on merits on the basis of available material and further that he is ready to suffer consequences thereof.

6. In view of the aforesaid, in the considered opinion of this Court, impugned order dated 31/05/2023, passed by the learned Sub Divisional Officer, Umred in Revenue Revision Case No.15/MCA-5/2021-22 of village Borgaon (L.) Tahsil Umred, District Nagpur is unsustainable and is liable to be quashed. The said order is accordingly quashed and set aside. Learned Sub Divisional Officer is directed to decide the revision on its own merits in accordance with law. Parties to appear before the Sub Divisional Officer on 15/01/2026. Parties to note that separate notice for appearance will not be issued.

7. Writ Petition is allowed and disposed of accordingly. No order as to costs.

(ROHIT W. JOSHI, J.)