



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

WRIT PETITION NO.7113/2023

PETITIONERS :

1. Mahadeo S/o Laxman Chatarkar
Aged about – 43 years, Occ. Agriculturist.
2. Sanjay S/o Laxman Chatarkar
Aged about 40 years, Occ – Agriculturist

Both are resident of Gok Saongi Tah.
Malegaon, Dist. Washim.

...VERSUS...

RESPONDENTS :

1. Sub-Divisional Officer, Washim.
2. Tahsildar/Mamlatdar,
Tah. Malegaon, Dist. Washim.
3. Talathi, Moza Goksaongi, Tah. Malegaon,
Dist. Washim.
4. Smt. Gangasagar W/o Janardhan Nimbalkar,
Aged about 50 years, Occu. Agriculturist.
5. Janardhan S/o Maroti Nimbalkar
Aged about 55 years, Occ – Agriculturist.
6. Sangita W/o Gajanan Chatarkar
Aged about 48 years, Occu – Agriculturist.
7. Pralhad S/o Waman Nimbalkar
Aged about 45 years, Occu- Agriculturist.
8. Gajanan S/o Waman Nimbalkar
Aged about 46 years, Occu- Agriculturist.

All r/o Gok Saonji Tah. Malegaon,
Dist. Washim.

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

Court's or Judge's orders

Mr. A.V. Band, Advocate for petitioners
Mr. N.S. Autkar, AGP for respondent Nos.1 to 3

CORAM : ROHIT W. JOSHI, J.

DATE : 24/09/2025

1. This petition takes exception to the order dated 13/10/2022 passed by the Tahasildar, Malegaon in MCA No.5/GOKSAONGI/03/2019-2020 exercising powers as Mamlatdar under the provisions of Mamlatdar's Courts Act, 1906 (for short hereinafter referred to as "Act of 1906") and the order dated 18/05/2023 passed by the learned Sub Divisional Officer, Washim in MCA/05/GOKSAONGI/23/2022-2023 dismissing the revision application preferred by the petitioners under Section 23 (2) of the Act of 1906.

2. The grievance of the petitioners is that by the impugned order the learned Mamlatdar has granted right of way to respondent Nos.4 to 8 to their agricultural land bearing Gat No.130. Learned Advocate contends that the right of way so granted over the field boundary i.e. Dhura is not permissible in law. Respondent Nos.4 to 8 who are the original plaintiffs before the Mamlatdar have not entered appearance in the matter despite they being duly served as is apparent from the office note dated 21/01/2025. It will be pertinent to mention that the notice in the present petition was issued intimating the parties that the petition would be heard finally at the stage of admission.

3. The learned Assistant Government Pleader justifies the orders contending that the road in question was being used by the villagers since last around 60 to 70 years. He contends that the petitioners have taken law in their hands and blocked the road by erecting fencing on 16/02/2020, consequence of which respondent Nos.4 to 8 could not approach their agricultural lands. He, therefore, contends that the learned Mamlatdar has rightly passed the impugned order directing the petitioners to remove the obstruction. He states that the learned Mamlatdar has not granted any new way but has only directed removal of obstruction over the existing road.

4. Perusal of the orders passed by the learned Mamlatdar as also learned Sub Divisional Officer will demonstrate that both the orders are non-speaking orders which do not deal with any of the contentions raised by the petitioners.

5. In view of the aforesaid, without expressing any opinion on merits, the impugned orders are required to be quashed and set aside only on the ground that the learned authorities have not recorded proper reasons initially while deciding the application filed under Section 5 of the Act of 1906 and thereafter while deciding the revision under Section 23 (2) of the Act of 1906.

6. In view of above, the writ petition is partly allowed. The impugned order dated 13/10/2022 passed by the Tahasildar, Malegaon in MCA No.5/GOKSAONGI/03/2019-2020 and order dated 18/05/2023 passed by the learned Sub Divisional Officer, Washim in MCA/05/GOKSAONGI/23/2022-

2023 are quashed and set aside.

7. The learned Mamlatdar/respondent No.2 is directed to decide MCA No.5/GOKSAONGI/03/2019-2020 afresh in accordance with law. The learned Mamlatdar is directed to record specific reasons for arriving at final decision in the matter.

8. The parties shall appear before the learned Mamlatdar/respondent No.2 on 14/10/2025. The respondent No.2/Mamlatdar is directed to decide the matter on or before 31/03/2026.

9. However, in view of the fact that no interim order is passed in the present petition and the impugned orders are operating for a considerable time, the impugned order dated 13/10/2022 passed by the learned Mamlatdar shall continue to operate till adjudication of the matter afresh.

10. No order as to costs.

(ROHIT W. JOSHI, J.)