



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

WRIT PETITION NO.7799 OF 2019

PETITIONER : **Madhav Manku Jamkar,**
Aged about 59 years, Occ : Agriculturist,
R/o Rahur, Tq. Mahagaon, District :
Yavatmal.

..VERSUS..

RESPONDENTS : 1 **Sub Divisional Officer Office,**
Umarkhed, Tq. Umarkhed, District:
Yavatmal.

2 **Tahsil Office, Mahagaon,** Through Naib
Tahsildar, (Revenue), Mahagaon, Tq.
Mahagaon, District: Yavatmal.

3 **Circle Inspector, (Revenue),** Mouja
Fulsawangi, Tq. Mahagaon, District:
Yavatmal.

4 **Talathi, Rahur,** At Rahur, Tq. Mahagaon
District: Yavatmal.

5 **Laxman Sakharam Korewad,** R/o Rahur,
Post: Fulsawangi, Tq. Mahagaon
District; Yavatmal.

6 **Kailash Motiram Jamkar,**
Aged: Major

7 **Rukminibai Yadao Jamkar,**
Aged: Major

8 **Sarjabai Motiram Jamkar,**
Aged: Major

9 **Ramchandra Balaji Korewad,**
Aged: Major

10 **Kisan Balaji Korewad,**
Aged: Major

11 **Kishor Laxman Korewad,**
Aged: Major

- 12 **Rangrao Sakharam Korewad,**
Aged: Major
- 13 **Nitin Rangrao Korewad,**
Aged: Major
- 14 **Anil Rangrao Korewad,**
Aged: Major
- 15 **Datta Vithal Kathaley,**
Aged: Major
- 16 **Sudhakar Vithal Kathaley,**
Aged: Major
- 17 **Rajkumar Nana Mahajan,**
Aged: Major
- 18 **Godavari Nana Mahajan,**
Aged: Major
- 19 **Ashatai Pralhad Kathaley,**
Aged : Major
- 20 **Ramakant Gyanba Kathaley,**
Aged: Major
- 21 **Shantabai Uttam Kathaley,**
Aged: Major
- 22 **Gajanan Baliram Korewad,**
Aged: Major
- 23 **Pandit Sakharam Korewad,**
Aged: Major
- 24 **Kuldeep Tukaram Ladake,**
Aged: Major
- 25 **Awadhoot Vithal Ladake,**
Aged: Major
- 26 **Dutta Sakharam Korewad,**
Aged: Major
- 27 **Bhagorao Manku Jamkar,**
Aged: Major
- 28 **Ganikhan Sardar Khan,**
Aged: Major

29 **Nisha Pundlik Anatrao Butle,**

Aged: Major

30 **Shindutai Yadavrao Gunate,**

Aged: Major.

[Amendment carried out as per Court's order dated 25.07.2024.]

All R/o Rahur, Post Fulsawangi,
Tq. Mahagaon, District Yavatmal.

Mr J. S. Wankhede, Advocate for Petitioner.

Mr A. G. Mate, AGP for Respondents/State.

Mr V. Gadbaile, Adv. h/f Mr K. S. Narwade, Advocate for Respondent Nos.5 to 9, 11 to 14, 16, 22, 26 and 27.

CORAM : SIDDHESHWAR SUNDARRAO THOMBRE

DATE : 25th NOVEMBER, 2025.

ORAL JUDGMENT

. Heard.

2. **Rule.** Rule made returnable forthwith. Heard finally with the consent of the learned counsel for the parties at the stage of admission.

3. By way of this petition, the petitioner challenges the order dated 18.11.2019 passed by the learned Sub-Divisional Officer, Umarkhed – respondent No.1, thereby dismissing the revision vide Revision R.A. No.01/MCA-05/2019-20 Mouja

Rahur, Tq. Mahagaon, District Yavatmal, arising out of the order dated 01.07.2019.

4. The respondent No.5 herein along with others filed an application before the Naib Tahsildar, Mahagaon, pointing out that although a pathway was already in existence, an obstruction was caused by the petitioner. Pursuant to that application, an enquiry was directed through the Revenue Officer. A spot inspection was conducted and as per the inspection report, it was observed that the road already existed but there was an obstruction created by the petitioner. Based on that report, the Naib Tahsildar, Mahagaon, allowed the application filed by the respondent No.5.

5. The said order was challenged by the petitioner before the Sub-Divisional Officer under Section 23 of the Mamlatdar's Courts Act, 1906 (for short, "MCA, 1906"), and the Sub-Divisional Officer upheld/confirmed the order passed by the Naib Tahsildar, Mahagaon.

6. Learned counsel for the petitioner submits that the spot inspection was carried out by the authorities without

considering the earlier map, which showed that an alternate way was available to the petitioner. He further submits that, in fact, only two persons were using the said disputed pathway, although the application was filed by more than ten to fifteen persons.

7. He also submits that before the order was passed, the Naib Tahsildar had already directed that the way be cleared. Lastly, he contends that the proceedings were not conducted in accordance with the provisions of Section 7 of the MCA, 1906. A mere application was filed and it was not filed in the form of a plaint. Learned counsel for the petitioner invites my attention to the judgment of this Court in the case of *Nandkishor S/o. Shivram Suradkar and Another vs. The Sub-Divisional Officer and Others, Writ Petition No.3610 of 2023* decided on 12.07.2023. He submits that as this was not conducted like the suit, therefore, by relying on the judgment referred supra, the orders passed by both the authorities are liable to be set aside.

8. Per contra, learned counsel for respondent No.5 and the learned Assistant Government Pleader supports the

orders passed by the Naib Tahsildar, Mahagaon and Sub-Divisional Officer.

9. I have considered the rival submissions advanced by both the parties.

10. As regards the legal position, there is no dispute that the proceedings under the MCA, 1906, are required to be dealt with in a manner akin to a suit. However, the object of the Act cannot be frustrated merely on such a technical ground. The parties are poor agriculturists, and if the pathway is obstructed by another agriculturist, it causes injustice to those who are using the pathway which was already in existence. The Act is intended to provide immediate relief in such situations. Therefore, in order to grant immediate relief, the revenue authorities were required to act. Sincerely, in the present case, when the obstruction was noticed, an application was filed and considered, and upon spot inspection it was found that the existing pathway had been obstructed by the petitioner. Accordingly, the Naib Tahsildar and the Sub-Divisional Officer have rightly considered the matter, and therefore, I do not find any reason to interfere with the order

dated 01.07.2019 passed in RCS No.42/MCA-5/2018-19 by the respondent No.2- Naib Tahsildar, Mahagaon and the order dated 18.11.2019 passed in R.A.No.1/MCA-5/2019-20 by the respondent No.1 – Sub Divisional Officer, District Yavatmal.

Hence, I proceed to pass the following order :

ORDER

- i) Writ Petition No.7799 of 2019 is **dismissed**. No order as to costs.

11. Rule is discharged accordingly.

(SIDDHESHWAR S. THOMBRE, J.)

TAMBE.