



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

WRIT PETITION NO. 61 OF 2024

Ashok Pundlik Chaudhari, aged 70 years,
occupation agriculturist, resident of Sirsi,
Tahsil Mangrulpir, District Washim.

...PETITIONER

....VERSUS....

1. Pundlik s/o Dattu Kalapad, aged 60
years, occupation agriculturist, resident
of Sirsi, Tahsil Mangrulpir, District
Washim.

2. Ramhari s/o Deoman Bhoyar, aged 50
years, occupation agriculturist, resident
of Sirsi, Tahsil Mangrulpir,
District Washim.

3. Kisan s/o Ramji Bhoyar, (dead)
through legal representatives

3A. Salunkabai Kisan Bhoyar, aged 75
years, occupation agriculturist, resident
of Sirsi, Tahsil Mangrulpir,
District Washim.

3B. Jagdeo Kisan Bhoyar, aged 55 years,
occupation agriculturist, resident
of Sirsi, Tahsil Mangrulpir,
District Washim.

4. The Sub Divisional Officer, Karanja
Lad, Tahsil Karanja Lad, District
Washim.

5. The Tahsildar, Mangrulpir, Tahsil
Mangrulpir, District Washim.

...RESPONDENTS

Shri S.S.Deshpande, Advocate for petitioner.
Shri P.S.Thakur, Advocate for respondent no. 3-B.
Ms. Deepa Charlewar, AGP for respondent nos. 4 & 5/State.

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

DATE : 23/04/2025

ORAL JUDGMENT

Heard the learned counsel for the petitioner, learned counsel for respondent no. 3-B and learned AGP for the State.

2. The present petition is filed challenging the order dated 05/12/2023 passed by the Sub-Divisional Officer, Karanja, by which order, the order of Tahsildar, Mangrulpir dated 20/08/2021 was set aside and the matter was remanded back to the Tahsildar, Mangrulpir for deciding it afresh.

3. It is contended that, it is 3rd round of litigation, in which, the S.D.O. has remanded the matter back to the Tahsildar. The petitioner had filed the application under Section 5 of Mamlatdar's Court Act (in short, "the said Act")

before the Tahsildar, Mangrulpir and stated that there was a customary way from approaching Dhura of Gat Nos. 102 and 101 to approach his field Gat No. 113. It was alleged that the respondent(s) are restraining the petitioner and obstructing his way.

4. The Tahsildar allowed the application of the petitioner on 21/11/2017 wherein the Tahsildar directed that, the way which was obstructed by the respondent(s) be opened and the said way be used by the present petitioner. The respondent(s) challenged the said order before the S.D.O., Washim. The S.D.O. by its order dated 15/06/2018 remanded the matter back to Tahsildar, Mangrulpir for hearing and deciding the matter afresh and directed to conduct the fresh inquiry in presence of the parties and after hearing of them, pass the appropriate order.

5. It appears that the Tahsildar has not conducted the spot panchnama by himself. There is nothing on record to show that the Tahsildar himself has carried out the spot inspection.

6. Thereafter, the Tahsildar passed the order rejecting the application under Section 5 of the said Act. Being aggrieved by the same, the petitioner again approached to the S.D.O., Washim by way of an appeal. The said appeal was partly allowed and the order of the Tahsildar dated 30/10/2018 came to be set aside and the matter was again remanded back to the Tahsildar for deciding afresh. After remanding the matter back, the Tahsildar, after granting an opportunity, passed the order on 20/08/2021 and allowed the suit. It was observed that there is a way which was obstructed by the respondent nos. 1 to 3 in their Gat No. 101. Therefore, the respondents again approached to the S.D.O., Karanja challenging the order of the Tahsildar, Mangrulpir dated 20/08/2021. This order of the Tahsildar is based on the report by Talathi. It again appears that, the Tahsildar has not conducted the spot inspection in his presence. Therefore, the S.D.O., in the appeal filed by present respondents, passed order dated 05/12/2023 and partly allowed the appeal and remanded the matter back to the Tahsildar for conducting

fresh spot inspection in his presence. This order is under challenge in this petition.

7. I have heard both the parties.

8. It appears from the report that, the Tahsildar, in spite of specific direction, has not conducted the spot inspection personally. On the basis of spot inspection conducted by Talathi, decided the suit in question. It appears that, he has no regard to orders passed by the superiors.

9. The learned S.D.O. is also expected to look into the matter as it was 3rd time the SDO remanded the matter back to the Tahsildar. In such circumstances, the S.D.O., Karanja Lad who has passed the order is also directed to remain present at the time of drawing while the Tahsildar will carry out the spot inspection.

10. Though I am not inclined to interfere in the order passed by the S.D.O. of remand, the S.D.O., Karanja Lad is hereby directed to conduct the spot inspection in his presence and end the issue and take the decision as per the provisions of law.

11. The due opportunity be granted to all the concerned so as to there shall not be any grievance of not granting any opportunity of hearing.

12. Accordingly, the petition stands **disposed of** in above terms.

13. The parties to remain present before the S.D.O., Karanja Lad on 29/04/2025 at 11.00 a.m.

14. The parties to communicate the order passed by this Court to the learned S.D.O. as well as the Tahsildar

(Smt. M.S.Jawalkar, J.)

B.T.Khapekar