



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

WRIT PETITION No.2203 OF 2024

(Gopal s/o. Pralhad Wankhade Vs. Manikrao Raghunath Wankhade and others)

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

Court's or Judge's orders.

Mr. S.D. Chand, Advocate for petitioner.
Mr. S.S. Bhalerao, Advocate for respondent No.1.
Mr. B.M. Lonare, AGP for respondent Nos.2 and 3.

CORAM : R.M. JOSHI, J.

DATE : 8th JULY, 2025.

1. By consent of both sides heard finally at the stage of admission.
2. This petition takes exception to the order passed by the Tahsildar under Section 5 of the Mamlatdar's Courts Act, 1906 rejecting the application filed by the petitioner and confirmation of the said order by the Sub-Divisional Officer.
3. Perusal of the record indicates that the application was filed with specific pleading that the contesting respondents has erected a gate thereby obstructed closed customary way of the petitioner. The respondents filed reply denying the customary way of the petitioner as claimed. On two occasions spot inspection was done. In these spot inspections it was not found that any iron gate has been erected by the contesting respondents over the Pandhan way in question. On the contrary, it seems from the said report that on account of the work carried out of deepening of nala, the debris/murum is found on the Pandhan road. It is not the case of the petitioner

that the respondent No.2 is responsible for the same.

4. Perusal of Section 5 of the Mamlatdar's Courts Act, 1906 indicates that the customary way it any available for approaching to his agricultural land is obstructed, the Tahsildar get jurisdiction to pass appropriate order of injunction against person, who causes such obstruction.

5. Perusal of the orders impugned indicate that there is no finding recorded of any obstruction being caused by the respondents to the way claimed by petitioner. In consequence, there was no question of granting any relief to the petitioner. As such the order of rejection of application under Section 5 of the Act, does not deserve interference.

6. Learned counsel for the petitioner makes a statement that the petitioner would take steps for removal of the debris from the Pandhan road. Needless to say that it would be open for him to do so as per law.

7. The petition stands dismissed.

(R.M. JOSHI, J.)