IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10852 OF 2024

Munjaji s/o. Satvaji Bande,
Age : 51 Years, Occ. Agril.,
r/o. Kanosa, Tq. Vasmat,
Dist.Hingoli ..Petitioner

Vs.

The Additional Collector,
Hingoli and others ..Respondents

Mr.A.N.Patale, Advocate for petitioner
Mr.B.V.Virdhe, AGP for respondent nos.1 to 3
Mr.D.K.Dagadkhair, Advocate for respondent no.4

CORAM : AJIT B. KADETHANKAR, J.
DATE : OCTOBER 07, 2026

ORDER :-

The petitioner initiated proceedings under Section 5(1) and (2) of the Mamlatdar's Courts Act, 1906 against the present respondents before the Tahsildar/Mamlatdar. After hearing the parties vide order dated 27.01.2023 said application came to be allowed. The respondent was directed to allow the petitioner to proceed through land gut No.89 by removing obstructions and restoring the pathway to its original position. Said proceedings was challenged by the respondent before the Sub-Divisional Officer under Section 23(2) of the

Act of 1906. After hearing the parties, vide judgment and order dated 01.12.2023, the Sub-Divisional Officer, Vasmat pleased to reject the said application and maintain the order dated 27.01.2023 passed by the Tahsildar. However, while passing the said order, the Sub-Divisional Officer – Dr. Sachin Khallal erroneously observed that the order was passed under Section 246 of the Maharashtra Land Revenue Code, 1966 (“M.L.R. Code”, for brevity).

2. Assuming that the Sub-Divisional Officer exercised the jurisdiction under Section 246 of M.L.R. Code, the respondent then approached the Additional Collector invoking Section 247 of M.L.R. Code. After hearing the parties, the Addl. Collector partly allowed the said appeal and remitted back the matter to the first authority i.e. Tahsildar. At this juncture also, even the Addl. Collector did not look into the base of the matter that as to whether the appeal could be maintenable against an order passed by revisional authority under Section 23(2) of the Mamlatdar’s Courts Act. It appears that since the Sub-Divisional Officer himself has observed that the order was being passed under Section 246 of the M.L.R. Code, the Addl. Collector continued the said error instead of looking into the record and treating the said matter under Section 247 of the M.L.R. Code. Feeling aggrieved thereby the petitioner is before this court.

3. Mr.Patale, learned advocate for the petitioner would submit that in the given set of facts the Addl. Collector had no jurisdiction to entertain any appeal under Section 247 of the M.L.R. Code ,even assuming that the Sub-Divisional Officer has committed error by referring to Section 246 of M.L.R. Code while disposing the revision. Thus he requests to allow the Writ Petition.

4. Mr.Dagadkhair, learned advocate for respondent would advocate the order passed by the Addl. Collector. He would submit that the Addl. Collector has rightly passed order under Section 247 of the M.L.R. Code, whereby the parties are relegated back to the Tahsildar for fresh consideration of the issue. He prays to dismiss the Writ Petition.

5. Heard both sides. Apparently the base petition is filed under Section 5 of the Mamlatdar’s Courts Act, 1906. The challenge to the said order could be invoked only under Section 23(2) of the said Act before Sub-Divisional Officer. Accordingly, although there was no reference to the provision under which the challenge was raised by the respondent before the Sub-Divisional Officer, still such challenge was filed before the S.D.O. obviously under Section 23 of the Act of 1906.

6. The Sub-Divisional Officer heard the parties and passed order on merit, however, committing unjustifiable error by referring to Section 246 of the M.L.R. Code. This created a mess in the matter. Assuming that the proceeding was under section 246 of the M.L.R. Code, the respondent approached the Addl. Collector under Section 247 of the M.L.R. Code. The Addl. Collector also committed the same error without looking into the proceedings and treating the matter most casually, even more than the Sub-Divisional Officer. Thus, the order dated 27.01.2023 came to be passed.

7. In the given circumstances, I deem it appropriate to quash and set aside the order passed by the Addl. Collector as also the order passed by the Sub-Divisional Officer and remit the matter back to the Sub-Divisional Officer.

8. Hence, the following order:-

A) The order dated 24.07.2024 passed by Addl. Collector, Hingoli and the order dated 01.12.2023, passed by the Sub-Divisional Officer, Vasmat are quashed and set aside.

B) The matter remitted back to the Sub-Divisional Officer, Vasmat to consider it afresh under Section 23(2) of the Mamlatdar's Courts Act. Till disposal of the revision petition, the order passed by first authority i.e. Tahsildar on 27.01.2023 shall remain in force.

C) The Revision petitioner is directed to mention clearly as to under which provision the revision petition is filed.

D) This Court disapproves the conduct of the then Sub-Divisional Officer, Vasmat, namely Dr. Sachin Khallal and also the then Addl. Collector namely, Shri.Ganesh Mahadik who even did not verify as to under which jurisdiction they are exercising their powers. If the responsible Officers are even not examining the procedure, then this is certainly a worrisome factor.

E) Both the parties shall appear before the revisional authorities on 21.10.2026. They agree that no separate notice for their appearance is necessary.

F) After the parties cause appearance, the revisional authority shall pass correct order within a period of two months therefrom.

G) All contentions of the parties are kept open.

H) Copies of this order be sent to the then Sub-Divisional Officer – Dr. Sachin Khallal and the then Addl. Collector, Hingoli, namely, Shri Ganesh Mahadik,

[AJIT B. KADETHANKAR, J.]

.....

KBP