



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

19 WRIT PETITION NO. 7240 OF 2024

DATTARAO TUKARAM WANKHEDE
VERSUS
NARAYAN KISHANRAO GHUTE AND OTHERS

...

Mr. S. S. Chillarge, Advocate for the Petitioner
Mr. S. D. Ghayal, Add.GP for Respondent Nos.2 and 3
Mr. S. S. Londhe, Advocate for Respondent No.1

...

CORAM : AJIT B. KADETHANKAR, J.
DATE : 04.03.2026

PER COURT :-

. Heard Mr. Chillarge, learned counsel for the petitioner and Mr. S. S. Londhe, learned counsel for respondent No.1.

2. This dispute arises between two adjacent landowners. Respondent No. 1 filed proceedings under Section 5(3) of the Mamlatdar Courts Act, 1906 before the Tahsildar, Himayatnagar. The Tahsildar rejected the proceedings on the ground of delay in filing the same. Thereafter, the respondent had filed a revision under Section 23 of the Mamlatdar Courts Act, 1906 before the Hon'ble Sub-Divisional Officer (SDO), Sub-Divisional Office, Hadgaon, District Nanded. The SDO allowed the revision and remanded back the matter to the Tahsildar for consideration on merit, condoning the delay. In response, the respondent, by way of a reply affidavit, brought to the court's notice that the

petitioner has already filed a civil suit seeking a perpetual injunction against the respondent in the competent Civil Court.

3. In view of the above, the remedy for Respondent No.1 would be to contest the suit on its merits and to assert his civil rights in the Civil Court only. It is trite law that the findings of the Civil Court would prevail over other litigation between the parties, including any dispute under the Mamlatdar Court's Act. Accordingly, Mr. S. S. Londhe, learned counsel for Respondent No.1, on instructions, has stated that Respondent No.1 will not pursue further proceedings under the Mamlatdar Court's Act and will instead prosecute his rights in the pending Civil Suit.

4. In view of this, the writ petition stands disposed of.

5. All the contentions of the parties are kept open.

6. The learned counsel for Respondent No.1 would submit that Respondent No. 1 proposes to file a counterclaim in the suit, and the issue of limitation may arise therefrom. In that view, the learned Civil Court may consider the question of limitation in filing the counterclaim, keeping in mind the proceedings pending between the parties under the Mamlatdar Courts Act as also pendency of this writ petition.

[AJIT B. KADETHANKAR, J.]