



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 11506 OF 2024

CHHAGAN GANPAT KSHETRE

VERSUS

**THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY
AND OTHERS**

...

Mr. Gautam J. Pahilwan, Advocate for the Petitioner.

Mrs. A. S. Mantri, AGP for Respondents-State.

Mr. Aniruddha A. Nimbalkar, Advocate for Respondent No.4.

Mr. S. B. Akhade, Advocate for Respondent Nos.5 to 7.

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 09th JANUARY, 2026.**

P.C.:-

1. The petitioner takes exception to order dated 01.10.2024 passed by Sub Divisional Officer, Pathardi in Revision Application No.53/2023, thereby upholding order dated 15.12.2022 passed by Tahsildar/Mamlatdar, Pathardi in Wahiwat Case No.27/2022.

2. The respondent no.4 invoked jurisdiction of Mamlatdar under Section 5(2) of Mamlatdar's Courts Act, 1906 contending that he owns land bearing Gut No.158. There was customary way for approach from Gut Nos.160 and 161 to his land. However, respondents have created obstruction in use of road. It is alleged that obstruction is created by use of Tractor and JCB Machine and existing cart road has been disturbed by respondents. In pursuance to proceeding initiated by respondent nos.4, respondent no.3/Mamlatdar caused spot inspection and prepared panchanama

on spot, wherein it has been noted that there was existing cart road as claimed by respondent no.4 and that has been disturbed by petitioner using JCB Machine and Tractor. Eventually, Mamlatdar allowed proceeding under Section 5(2) of Mamlatdar's Courts Act and directed respondents to remove obstructions and permitted use of customary way as that was existing on spot.

3. Aggrieved by order of Mamlatdar, petitioner and respondent nos.4 to 9 filed Revision Application under Section 23(2) of Mamlatdar's Courts Act before Sub Divisional Officer, who affirmed order passed by Mamlatdar.

4. Aggrieved by concurrent decision, petitioner/original respondent no.1 filed present Writ Petition.

5. Mr. Gautam Pahilwan, learned Advocate appearing for petitioner would submit that respondent no.4 is having alternate way to approach his field and cultivate his land, however, Mamlatdar entertained application of respondent no.4. According to Mr. Pahilwan, order passed by Mamlatdar is without following due process of law as contemplated under Mamlatdar's Courts Act. Similarly, contents of spot panchanama are not sufficient to conclude existence of cart road, as claimed by respondent no.4.

6. Per contra, Mr. Aniruddha Nimbalkar, learned Advocate appearing for respondent no.4 supports impugned order.

7. Perusal of record indicates that Mamlatdar has caused spot inspection in pursuance to application tendered by respondent no.4. The panchanama clearly records that respondent no.4 was having approached road, which passes from Eastern side of Gut Nos.159, 160 and 161. The panchanama also records that by using JCB Machine and Tractor, existing way has been obstructed, compound walls are constructed and wire fencing is also made. All these circumstances clearly shows obstructions at the hands of petitioner and other private respondents to use of existing way by respondent no.4. The Mamlatdar as well as Sub Divisional Officer have recorded concurrent finding of facts based on material on record. No perversity is discernible in reasoning adopted by authorities.

8. In that view of matter, no case is made out to cause interference under Article 227 of Constitution of India.

9. In result, Writ Petition stands dismissed.

(S. G. CHAPALGAONKAR)
JUDGE