



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

948 WRIT PETITION NO. 12109 OF 2024

SOMINATH BHAGAJI WANI AND OTHERS
VERSUS
THE SUB DIVISIONAL OFFICER AND OTHERS

...

Ms. Sharayu K. Dhanture h/f. Mr. Ravindra V. Gore, Advocate for the Petitioners

Mrs. M. L. Sangit, AGP for Respondent Nos.1 to 3

Mr. Shrikant Y. Patil h/f. Mr. V. B. Deshmukh, Advocate for Respondent Nos.4 and 5

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 01.04.2026

PER COURT :-

. An application under Section 5(1)(2) of the Mamlatdars' Courts Act, 1906 (hereinafter referred to as "the Act") in respect of a *vahivat rasta* situated in Gat No.76 of Mauje Krushnapurwadi, Taluka and District Aurangabad, came to be filed by the present petitioners.

2. By order dated 24.04.2023, the Tahsildar, Aurangabad allowed the said application. Being aggrieved thereby, the respondents preferred a revision under Section 23(2) of the Act before the Sub Divisional Officer, Chhatrapati Sambhajinagar (SDO). Vide impugned order dated 09.08.2024, the SDO partly allowed the revision application, set aside the order dated 24.04.2023 passed by the Tahsildar and relegated the parties back to the Tahsildar for fresh adjudication under Section 5(1) and (2) of the Act. Being aggrieved by the said order, the petitioners are before this Court.

3. Ms. Sharayu K. Dhanture h/f Mr. Ravindra V. Gore, learned counsel for the petitioners submits that the inquiry before the Tahsildar was conducted after issuing due notice to all concerned stakeholders and affording them an opportunity of hearing. She submits that on merits, the order passed by the Tahsildar was just and proper. She further submits that the failure on the part of the respondents to file written notes of arguments cannot be a ground for interference by the Revisional Authority under Section 23(2) of the Act. It is also contended that even in the revision proceedings, the petitioners were not duly heard. Therefore, she submits that at the most, the matter could have been remanded to the Revisional Authority.

4. Per contra, Mr. Shrikant Y. Patil h/f Mr. V. B. Deshmukh, learned counsel for respondent Nos. 4 and 5 advocates the impugned order dated 09.08.2024 passed by the SDO. He submits that no prejudice would be caused to any party if the matter is adjudicated afresh by the Mamlatdar under Section 5 of the Act. He further submits that notices were issued in the revision proceedings, however, the respondents did not appear before the Revisional Authority. He invites attention to the recitals in the impugned order to point out that notice was also published in a local newspaper. According to him, in the peculiar facts where his clients dispute lack of opportunity before the Tahsildar and the petitioners dispute the proceedings before the Revisional Authority, it would be appropriate that both parties appear before the Mamlatdar and contest the matter on merits.

5. I have heard the learned counsel for the respective parties at length, as well as Mrs. M. L. Sangit, learned AGP.

6. The impugned order indicates that notice of hearing in the revision proceedings was duly given by the Revisional Authority and was also

published in a local newspaper. Therefore, it cannot be said that the revision proceedings under Section 23(2) were conducted without affording an opportunity of hearing to the present petitioners. What now remains is the adjudication before the competent authority under the Act of 1906.

7. Considering the rival contentions on merits as well as on the issue of opportunity of hearing, it would be just and proper that both parties appear before the Tahsildar, Chhatrapati Sambhajnagar, in terms of operative clause No. 3 of the order dated 09.08.2024. If both parties are permitted to put forth their respective cases on merits before the Tahsildar, no prejudice would be caused to either side.

8. It is pertinent to note that the order dated 24.04.2023 passed by the Tahsildar has already been set aside by the Revisional Authority on 09.08.2024. Thereafter, by order dated 12.11.2024, this Court granted interim relief restraining the Tahsildar from proceeding further pursuant to the remand. In these circumstances, it would be appropriate to direct the parties to appear before the Tahsildar for fresh adjudication on merits.

9. In view of this, the Writ Petition stands disposed of.

10. The parties shall appear before the Tahsildar, Chhatrapati Sambhajnagar, on 28.04.2026 and shall file their respective pleadings in support of their contentions. The Tahsildar shall thereafter decide the application in accordance with law and on its own merits as expeditiously as possible.

[AJIT B. KADETHANKAR, J.]