



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

938 WRIT PETITION NO. 5536 OF 2025

Firdoz Shirin Azhar Ahmed Deshmukh

VERSUS

The State Of Maharashtra Through Principal Secretary And
Others

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Advocate for Petitioner : Mr. R.D. Biradar

AGP for Respondent nos.1-4 : Mr. S.P. Joshi

Advocate for Respondent no.5 : Mr. K.P. Rodge

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CORAM : S. G. CHAPALGAONKAR, J.

Dated : May 05, 2026

PER COURT :-

1. Present writ petition takes exception to the order dated 22nd October, 2021 passed by learned Mamlatdar/Respondent No.4 in file number 2019/JM/ROR/CR/Kavi/302 as well as the order dated 12.06.2023 confirmed by Respondent No.3-Sub-Divisional Officer, Ahmedpur in file no.2021/ROR/A-140.

2. Mr. Biradar, learned advocate appearing for petitioner submits that petitioner is owner of land Gat Number 16 to the extent of 45R. Respondent No.5 initiated proceeding under Section 5 of the Mamlatdar's Courts Act against Alimiya Papamiya Deshmukh and Azhar Alimiya Deshmukh claiming that they obstructed use of customary way, which passes from

Gat no.18 and 16. The learned Mamlatdar allowed application and passed an injunction order against respondents therein as well as any other person. Mr. Biradar submits that although, petitioner is owner of land Gat No.-16 and injunction order is made operative against respondents and any other person, petitioner, who is owner of the land Gat No.16 was neither made party to proceeding nor notice of such proceeding was given. He contends that, on the basis of aforesaid injunction order, respondents/Authorities are trying to implement the order even against petitioner and trying to create way from her land.

3. Per contra, Mr. Rodge, learned Advocate appearing for Respondent No.5 would submit that the impugned order is passed in the year 2021 and same has been executed. At present, there was no obstruction to the use of way by any person. However, because of the interim relief granted by this Court in present writ petition, petitioner is not obstructing use of the way.

4. Having considered submissions advanced by learned advocates appearing for respective parties, it cannot be disputed that petitioner purchased land from gat no.16 under

registered sale-deed dated 21-11-2012. Her name is mutated in the record of rights to the extent of 45R land from gut no. 16. Undisputedly, petitioner was not made party to the proceeding initiated by respondent no.5 under section 5 of the Mamlatdar's Courts Act. The Tahsildar passed order of injunction against respondents before him and any other person and directed not to obstruct respondent no.5 from use of customary way passing from gut nos.18 and 16.

5. Although, petitioner's land is affected by use of so-called customary way, petitioner was neither made party nor she was given opportunity of hearing before passing impugned order.

6. In that view of the matter, this Court holds that impugned order passed by Mamlatdar would not operate as against the petitioner. Its operation would be limited to the parties to the proceeding before the Mamlatdar. If respondent no.5 wants to claim any right of way from land of the petitioner, he shall be at liberty to initiate fresh proceeding against petitioner. However, on the basis of impugned order, no coercive steps can be taken against the petitioner.

7. In view of aforesaid observations, writ petition stands
disposed of.

(S. G. CHAPALGAONKAR, J.)

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