

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5960 OF 2024

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Parshuram Premraj Wable And Ors.

...Petitioners

Versus

The State Of Maharashtra And Ors.

...Respondents

Mr. Nilesh Wable, *for the Petitioners.*

Ms. M. S. Srivastav, *A.G.P., for Respondent-State.*

Mr. Avinash B. Avhad, *a/w Mr. Mahesh V. Ravwool, for the Respondent No.6.*

CORAM : SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 2, 2026

ORDER :

1. This Petition seeks to impugn an order dated March 15, 2024, passed by the Learned Sub-Divisional Officer, evidently and purportedly in disposal of a challenge filed under Section 247 of the Maharashtra Land Revenue Code, 1966 (***“the MLRC”***). The grievance of the Petitioners is that while the Impugned Order refuses to revise the erroneous view taken by the Tehsildar in his order dated September 16, 2021, the jurisdiction for the matter properly lies under the Mamlatdar’s Courts Act, 1906, and not under the MLRC.

2. Having heard Learned Advocates for the parties at some length, it is apparent that at the heart of the dispute lies the construction of a road connecting two villages namely Pimpalsuti and Shirasgaon Kata. The Petitioners own certain lands at the border of Pimpalsuti and apprehend that some of their land will be acquired in the course of construction of such road. The order impugned in the Revision Application is nothing but an order permitting police protection for conducting measurement of the land for purposes of the road and removal of obstructions, if any, to the process of measurement, and in the Petitioners' apprehension, to the process of eventual construction of the road.

3. On the face of it, none of the actions impugned have been taken under the Mamlatdar's Courts Act, 1906. It is Petitioners' submission that they such proceedings ought to have been taken up under the Mamlatdar's Court Act, 1906. This is, however, belied by earlier litigation before this Court, wherein Writ Petition No. 6318 of 2021, a similar challenge was withdrawn with liberty to file an appeal under Section 247 of the MLRC. That Appeal has indeed been filed and, upon not being successful, the next round of appeal is said to be pending before the Deputy Director of Land Records.

4. The subject matter of the apprehension of the Petitioner is, therefore, already before the appellate authorities under the MLRC.

5. Learned AGP and Learned Advocate on behalf of Gram Panchayat Shirasgaon Kata submit that the matter has nothing to do with the Mamlatdar's Courts Act, 1906. *Prima facie*, an examination of Section 5 of the Mamlatdar's Courts Act, 1906, shows that it is essentially a framework by which disputes relating to right of way or obstruction or impediment to the enjoyment of land by the owner of adjoining land and such resources are meant to be resolved by filing suits under that Act.

6. The very nature of the remedy under that Act, which is akin to the jurisdiction of a Civil Court, although summary in nature, is best suited for the purposes of bilateral disputes. The matter in hand is not such a dispute at all – worse, it is merely a proposal to get police protection for measurement of land that is in issue.

7. Be that as it may, should the authorities be desirous of constructing a road between two villages, and should such construction necessitate the acquisition of any land owned by private parties in either village, they would need to comply with the applicable provisions of law, such as the law governing land acquisition, unless of course, there are

bilateral transactions by mutual consent that lead to the ceding of land by any private owner.

8. Therefore, the apprehension in the current matter, which is essentially impugning an original order doing nothing more than directing police protection for the conduct of a measurement of land, is premature.

9. Learned Advocate for the Petitioner apprehends that once the measurement is allowed, such measurement, coupled with the nature of the application before the Tehsildar, could be seen as an endorsement that portions of the Petitioner's land may be acquired without any compensation. Such an apprehension is evidently misplaced. Learned AGP also points out that should any acquisition be required for the construction of a public road, it would only be done strictly in accordance with law, and there is no need to presume that private lands belonging to the Petitioner would be usurped without compliance with law.

10. In these circumstances, with the aforesaid observations, the Petition is ***dismissed*** without any order as to costs, making it clear that should any acquisition of private land be necessary for purposes of

construction of a road, the same will only be done in accordance with law.

11. All interim protections obtaining until today in this Petition stand vacated. Measurement of land for purposes of the proposed road shall be carried out and, should any additional acquisition of private land be necessitated, the same shall be done in accordance with law.

12. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]