

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO. 316 OF 2024

Ramchandra Damodar Ahire ..Applicant
Versus
Tahsildar And Ors ...Respondents

Mr. Khushnood Akhtar i/by Shivaji Nirmale, for the Applicant.
Mr. Sanjay P. Shinde, for the Respondent Nos. 6 to 19.
Mr. D. J. Haldankar, AGP for Respondent – State.

CORAM: N. J. JAMADAR, J.
DATE : 14th JANUARY 2026

ORAL JUDGMENT:

1. Rule. Rule made returnable forthwith, and, with the consent of learned Counsel for the parties, heard finally.

2. This Civil Revision Application is directed against a judgment and order passed by the learned District Judge-3, Malegaon in Miscellaneous Civil Appeal No. 55/2023, whereby an appeal preferred by the applicant against an order passed by the learned Civil Judge on an application for temporary injunction (Exh. 5) in RCS No. 880/2023, came to be dismissed.

3. The Respondents/original defendants had instituted a proceeding under Section 5 of the Mamlatdar's Courts Act. By

an order dated 28th May, 2022, the Mamlatdar was persuaded to allow the said application and direct the removal of the impediment caused to the access through the road which was running through Gat No. 03 on the bank of a rivulet (nala).

4. Being aggrieved, the applicant had initially preferred a revision application before the Sub-Divisional Officer. Subsequently, the said revision application was withdrawn and the applicant instituted a suit before the Civil Court at Malegaon.

5. In the said Civil Suit no. 880/2023, the applicant preferred an application for temporary injunction. By an order dated 10th November, 2023, the learned Civil Judge was persuaded to reject the application.

6. The applicant carried the matter in appeal before the learned District Judge. By the impugned order, the learned District Judge was persuaded to dismiss the appeal observing *inter alia* that, there was material to show the existence of the road and obstruction caused by the applicant.

7. The learned Counsel for the applicant submitted that, the learned Civil Judge as well as the learned District Judge

committed an error in not appreciating the case of the applicant, and have proceeded only on the basis of the observations made by the Mamlatdar in the proceeding under Section 5 of the Mamlatdar's Courts Act. It was submitted that, the respondents have an alternate access to their fields. By taking an undue advantage of the order passed by the Mamlatdar, a new road is sought to be created through the land of the applicant. In the event the respondents are not restrained from creating a new road, during the pendency of the suit, in which the legality and propriety of the proceedings before, and the order passed by, the Mamlatdar is yet to be determined, the applicant would suffer an irreparable loss.

8. In opposition to this, the learned Counsel for the respondents would submit that, the material on record squarely establishes the fact that, the road did exist and the applicant caused an impediment in the access through the said road. Taking the Court through the orders passed by the Mamlatdar, the learned Civil Judge and the learned District Judge, the learned Counsel for the respondents submitted that, none of the impugned orders warrants any interference in exercise of supervisory jurisdiction.

9. At the outset, it is necessary to note that, the applicant ought to have filed a writ petition instead of a Revision Application to assail the impugned order. Nonetheless, since the parties have completed the pleadings, this Court considered it appropriate to proceed with the determination of the revision application on merits.

10. In exercise of the supervisory jurisdiction, this Court is not expected to re-appreciate, re-weigh and review the evidence/material before the Courts below. The supervisory jurisdiction cannot be converted into an appellate jurisdiction. Whether the Courts and the Tribunals have exercised the jurisdiction within the bounds of the law or the impugned orders are perverse, are the matters which fall within the remit of the supervisory jurisdiction.

11. A profitable reference in this context can be made to the judgments of the Supreme Court in the cases of **Rajendra Diwan Vs. Pradeep Kumar Ranibala & Anr.**¹, and **Ajay Singh Vs. Khacheru & Ors**².

1 2019 SCC OnLine SC 1586

2 (2025) 3 SCC 266

12. In the case of **Rajendra Diwan Vs. Pradeep Kumar Ranibala & Anr., (supra)** the Supreme Court has expounded the nature and proceeding as under:-

....

“85. The power of superintendence conferred by Article 227 is, however, supervisory and not appellate. It is settled law that this power of judicial superintendence must be exercised sparingly, to keep subordinate courts and tribunals within the limits of their authority. When a Tribunal has acted within its jurisdiction, the High Court does not interfere in exercise of its extraordinary writ jurisdiction unless there is grave miscarriage of justice or flagrant violation of law. Jurisdiction under Article 227 cannot be exercised “ in the cloak of an appeal in disguise”.

86. In exercise of its extraordinary power of superintendence and/or judicial review under Articles 226 and 227 of the Constitution of India, the High Courts restrict interference to cases of patent error of law which go to the root of the decision; perversity; arbitrariness and/or unreasonableness; violation of principles of natural justice, lack of jurisdiction and usurpation of powers. The High Court does not re-assess or re-analyse the evidence and/or materials on record. Whether the High Court would exercise its writ jurisdiction to test a decision of the Rent Control Tribunal would depend on the facts and circumstances of the case. The writ jurisdiction of the High Court cannot be converted into an alternative appellate forum, just because there is no other provision of appeal in the eye of the law.”

13. In the case of **Ajay Singh Vs. Khacheru & Ors. (supra)**, the limits the exercise of writ jurisdiction were expounded as under:

“38. Though powers of a High Court under Articles 226 and 227 are very wide and extensive over all courts and tribunals throughout the territories in relation to which it

exercises jurisdiction, such powers must be exercised within the limits of law. The power is supervisory in nature. The High Court does not act as a court of appeal or a court of error. It can neither review nor reappreciate, nor reweigh the evidence upon which determination of a subordinate court or inferior tribunal purports to be based or to correct errors of fact or even of law and to substitute its own decision for that of the inferior court or tribunal. The powers are required to be exercised most sparingly and only in appropriate cases in order to keep the subordinate courts and inferior tribunals within the limits of law”.

14. In the case at hand, the material on record indicates that, the Mamlatdar in the wake of a dispute having been raised under Section 5 of the Mamlatdar's Courts Act, has conducted a spot inspection and recorded the statements of the parties and adjoining land holders. In the map, which was prepared by the Mamlatdar, during the course of the spot inspection, the existence of the road on the bank of the rivulet (nala) has been clearly shown. The impediment caused by the applicant to the said access has also been recorded. The spot inspection panchnama categorically records that, the said road on the rivulet (nala) exists beyond the field of the applicant and in the field of the applicant, the said rivulet (nala) was filled and thereby the access was blocked. The existence of the said road is also indicated in the village map.

15. On the basis of the aforesaid material which *prima facie* shows the existence of the road as well as the impediment caused by the applicant, the Courts below have recorded concurrent, *prima facie*, findings of facts that, the road did exist and applicant had caused obstruction thereto.

16. The aforesaid findings recorded by the Courts below appear to be based on objective material. Therefore, in exercise of the supervisory jurisdiction, this Court does not find any justifiable reason to interfere with the aforesaid *prima facie* findings of facts and tentative inferences drawn by the Courts below. Thus, the Civil Revision Application does not deserve to be entertained.

17. Hence, the following order:-

:: O R D E R ::

- I) The Civil Revision Application stands dismissed.
- ii) The learned Civil Judge is requested to hear and decide the suit as expeditiously as possible.
- iii) Rule discharged.

No costs.

[N. J. JAMADAR, J.]