

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3803 OF 2026

Vitthal Punjram Darade & ors.

..Petitioners

Versus

Shantaram Pandharinath Ghuge & ors.

...Respondents

Mr. Harshad Palwe, for the Petitioner.

Smt. M S Srivastava, AGP for the Respondent – State.

Shantaram Ghuge – Respondent No. 1 present.

CORAM : N. J. JAMADAR, J.

DATE : 27th APRIL 2026

ORAL ORDER :

1. Heard the learned Counsel for the parties.
2. The challenge in this petition is to an order dated 11th August, 2025 passed by the Sub Divisional Officer, Yeola in RTS Revision Application No. 23/2025 whereby while setting aside the order in Vahivat Case No. 14/2024 dated 23rd December, 2024, the Sub-Divisional Officer had restored Vahivat Case No. 30/2020.
3. The Respondent No. 1 - Shantaram Ghuge who is present before the Court and Rajesh Ghuge, the Respondent No. 2 who is the brother of Respondent No. 1, had filed an application under Section 5 of the Mamlatdar's Courts Act, 1906 ('the Act, 1906'), being Vahivat Case no. 30/2020.

4. By an order dated 10th January, 2022, the said application came to be dismissed purportedly for want of prosecution. It was *inter alia* noted that, despite repeated notices to the parties, none had appeared and, therefore, the said Vahivat Case No. 30/2020 came to be disposed.

5. The Respondent Nos. 1 and 2 filed another application under Section 5 of the Act, 1906, being Vahivat Case No. 14/2024 on 15th July, 2024. In the said application it was asserted that, a month prior to the said application, the petitioners had caused an impediment in the access to their field.

6. By an order dated 23rd December, 2024, the Tahsildar disposed of the said application on the ground that the earlier application i.e. Vahivat Case No. 30/2020 was disposed, for want of prosecution.

7. The respondents preferred revision before the Sub-Divisional Officer. By the impugned order the said revision application came to be allowed and the order passed by the Tahsildar in Vahivat Case No. 14/2024 dated 23rd December 2024 was set aside. The matters was remitted back to the Mamlatdar for a fresh decision within a period of three months. The Sub-Divisional officer further directed that, Vahivat Case

No. 30/2020, which was disposed by order dated 10th January, 2022, also stood restored.

8. Mr. Palwe, the learned Counsel for the petitioner, submitted that, the Respondent Nos. 1 and 2 have been filing applications after applications before the Mamlatdar under Section 5 of the Act, 1906. The revisional authority has delved into the merits of the matter while deciding the legality and propriety of the order dated 23rd December, 2024 in Vahivat Case No. 14/2024. In any event, the revisional authority could not have restored Vahivat Case No. 30/2020, the dismissal of which was never assailed by the Respondent Nos. 1 and 2.

9. I have perused the application in Vahivat Case No. 14/2024. In the said application the Respondent Nos. 1 and 2 have affirmed that, a month prior to the filing of the said application, the petitioners – respondents therein had created an impediment in access to their field by blocking the subject way. What emerges is that, the Respondent Nos. 1 and 2 have filed an application under Section 5 of the Act, 1906 by pleading a fresh cause of action. The said cause of action has purportedly accrued within six months prior to the filing of the said application. Whether the Respondent Nos. 1 and 2 succeed in the said application is an altogether different matter.

10. In this view of the matter to the extent, the revisional authority interfered with the order passed by the Mamlatdar in Vahivat Case No. 14/2024, no fault can be found with the said order. However, the revisional authority has exceeded its jurisdiction in restoring Vahivat Case No. 30/2020, which was dismissed by an order dated 10th January, 2022 and the said order was not assailed in the Revision Application No. 23/2025.

11. Thus, the Writ Petition deserves to be partly allowed.

12. The impugned order stands quashed and set aside only to the extent it restores Vahivat Case No. 30/2020.

13. The Mamlatdar is directed to decide the Vahivat Case No. 14/2024 only, in accordance with law, without being influenced by the observations of the Sub-Divisional Officer in the impugned order, as expeditiously as possible.

14. The Writ Petition stands disposed.

[N. J. JAMADAR, J.]