



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5942 OF 2024

Gurudeo s/o Laxman Bodhale,
Aged about 46 yrs, occ. Agriculturist,
R/o Pimplapur, Tal. Kelapur,
Dist. Yavatmal

...PETITIONER

...V E R S U S...

1. Assistant Collector @
Sub-Divisional Officer,
Dist. Yavatmal.

2. The Tahsildar @ Taluka
Magistrate, Kelapur,
Dist. Yavatmal

3. The Talathi, Pimplapur,
Dist. Yavatmal

4. The Circle Officer, Karaji,
Dist. Yavatmal

5. Eknath @ Ekasha Maroti Pawar,
aged about 50 yrs, Occ. Agriculturist

6. Pandurang Daulat Pawar,
Aged about 50 yrs, Occ. Agriculturist

7. Kamlabai Pandurang Pawar,
Aged about 49 yrs, Occ. Agriculturist

8. Arasha Maroti Pawar,
Aged about 50 yrs, Occ. Agriculturist.

Respondent Nos. 5 to 8 all
r/o Ganeshpur, Taluka Kelapur,
Dist. Yavatmal

9. Mahadeo Dattuji Bodale,
Aged about 50 yrs, Occ. Agriculturist,
R/o Pimplapur, Tal Kelapur,
Dist. Yavatmal

...RESPONDENTS

Mr. Vivek Awchat, Advocate for petitioner.
Ms. D.V. Sapkal, AGP for respondent Nos. 1,2 & 4.
Mr. Yashraj Kinkhede, Advocate for respondent Nos. 5 to 9.

CORAM:- M.W. CHANDWANI, J.

DATE :- 01.04.2026

ORAL JUDGMENT:

Rule. Rule made returnable forthwith. Heard finally with the consent of the learned counsels appearing for the parties.

2. This petition challenges the order dated 28.8.2023, bearing No. Rajasva Mamla Kra. 16/M.C.A.5/2023-24 Mauja Pimpalpur, passed by respondent no. 2 – the Tahsildar, Kelapur (for short, “Mamlatdar”), under the Mamlatdar’s Court’s Act, 1906 (for short, “Act of 1906”) which was confirmed vide order dated 3.9.2024 bearing No. Ra. Ma. Kra.1/M.C.A.-5/2023-24, passed by respondent no. 1- the Sub Divisional Officer, Kelapur under its revisional jurisdiction.

3. Respondent Nos. 5 to 9 are the agriculturists having their respective lands bearing Survey Nos. 41,64/4B,43 and 43/3B at Mouza Pimplapur, Tah. Kelapur District Yavatmal. It is case of the

respondents that they have been using the pathway passing through the boundaries of land bearing Survey Nos. 39, 40 and 27 since last 25 years for going towards their respective lands. Recently, the petitioner, who is the owner of the land bearing Survey Nos. 39 and 40, created obstruction by digging canal in the pathway thereby obstructing the pathway for respondent Nos. 5 to 9 from using it towards their respective lands, hence, they applied before the Mamlatdar Court under Section 5 of the Act of 1906 for removing this obstruction created.

4. Thereafter, notice was served to the petitioner. Further, the disputed pathway was inspected two times by the authorities, wherein, on both occasions, it was found that the obstruction is created recently by the petitioner. The learned Mamlatdar directed the petitioner to remove the obstruction vide the impugned order. Thereafter, an unsuccessful attempt of filing the revision before the Sub-Divisional Officer was made by the petitioner which was rejected. Being aggrieved by the said orders, the petitioner is before this Court.

5. The main contention of the petitioner is that, the principles of natural justice were violated and the procedure given in the Act of 1906 has also not been followed. On the other hand, the

learned Counsel for the respondents supported the impugned orders.

6. Heard the learned counsel for the parties. I have gone through the record.

7. On perusal of the record, it appears that, the learned Mamlatdar mainly relied upon the Spot Inspection Report which observed that the pathway which was being used by the respondents is obstructed. By impugned order, the petitioner was directed to remove the obstruction. It appears that, on both occasions when the disputed pathway was inspected, the petitioner was present there in person. Therefore, there is no substance in the submission of the learned counsel for the petitioner that, had the copy of the Spot Inspection Report been supplied to him, he would have raised objection, for the simple reason that, neither any application is filed before the learned Mamlatdar nor any such ground is raised before the revisional Court by the petitioner.

8. So far as another ground raised by the petitioner that, the decision has not been given in the open Court is concerned, my attention is drawn to the Roznama wherein on 28.8.2023, it is mentioned that the order has been passed. Considering this Roznama, it cannot be inferred that the said order has not been

passed in the open Court. Further, this ground was also not raised by the petitioner before the revisional Court.

9. It appears that in this matter, the learned Mamlatdar issued notices on two occasions to secure presence of the petitioner. Moreover, the record shows that, the petitioner was present on each and every date, therefore, it cannot be said that the principles of natural justice has not been followed. Further, since, nothing has been demonstrated to show that the order was not passed in the open Court, this submission also cannot be accepted, more particularly, when this ground was not raised earlier before the revisional Court.

10. In light of the above discussion, the petition is devoid of merit and deserves to be dismissed and it is accordingly dismissed.

(M.W. CHANDWANI, J.)

Belkhede PS