



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

WRIT PETITION NO.5166/2024

Shrikrushna Tukaram Solav

Vs.

State of Maharashtra, through its Secretary, Ministry of Revenue and Forest,
Mumbai and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri R.N. Ghuge, Advocate for petitioner

CORAM : ANIL S. KILOR AND RAJ D. WAKODE, JJ.

DATE : 04.03.2026

CIVIL APPLICATION (CAW) NO.2426/2024

1. Heard learned Counsel for applicants. For the reasons stated in the application, the application is allowed.

2. The petitioner is directed to implead the present applicant No.1- Mahadeo Dattarao Solav and applicant No.2- Narayan Ramchandra Solav as a party respondent Nos.5 and 6 in the present writ petition.

3. Necessary amendment be carried out forthwith.

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1. The petitioner is an owner of Gat Nos.124 and 125 situated at village Jodgavhan and the said fields are adjoining Gat No.141 and 142. The aforesaid Gat Nos.141

and 142 are owned by respondent Nos.5 and 6. From the eastern side of the said Gat No.141 and 142, there is a cart-way/government road from Mouza Jodgavhan to Gunj which is very old and traditional road as per the contentions of the present petitioner.

2. The contention of the petitioner is that on 10.08.2022, the aforesaid Government road has been encroached upon and closed by the owners of Gat No.141 and 142 i.e. the respondent Nos.5 and 6. Therefore, the petitioner along with other villagers who were also using the said way had preferred an application to the respondent No.4 seeking the clearing of the said government road. The application dated 10.08.2022 is at record page No.20 (Annexure-A).

3. In pursuance of the aforesaid application, respondent No.4 Tahsildar, Malegaon, issued a communication dated 15.05.2023, which is at record page No.65 (Annexure-G). By virtue of the aforesaid communication, respondent No.4 had directed the Deputy Superintendent of Land Record to measure the road as per the village map and marked the boundaries and enter the same in the 7/12 extract.

4. Learned Counsel for petitioner has invited our attention to the panchanama dated 23.05.2023 in pursuance of the aforesaid communication dated

15.05.2023, which reveals that respondent Nos.5 and 6 had obstructed the aforesaid measurement and accordingly, the procedure could not be completed by the Deputy Superintendent of Land Records Malegaon. The aforesaid panchanama is at record page No.78 (Annexure-I).

5. Learned Counsel for respondent Nos.5 and 6 has invited our attentions to the proceedings initiated by the petitioner along with other villagers under Section 5 of the Mamlatdar Courts Act before the learned Mamlatdar on 28.03.2023. The aforesaid plaint is at record page No.70 (Annexure- H).

6. Learned Counsel for Respondent Nos.5 and 6 submits that the petitioner can seek redressal of his grievance in the aforesaid proceedings.

7. Learned Counsel for petitioner submits that prior to that, the petitioner had approached respondent No.4 Tahsildar Malegaon by submitting the application on 10.08.2022. The respondent No.4 had initiated the proceedings in pursuance to the aforesaid application dated 10.08.2022 and because of the obstruction of respondent Nos.5 and 6 such proceeding could not be culminated. It is the choice of the petitioner as to where he would seek the redressal of his grievance.

8. In view of above, he seeks directions of this Court to respondent No.4 Tahsildar to take the aforesaid proceedings

to its logical end.

9. Accordingly, we dispose of the present petition with a direction to respondent No.4 Tahsildar Malagaon, to decide the aforesaid application dated 10.08.2022 submitted by the petitioner which is at record page No.20 (Annexure-A), in pursuance to the communication dated 15.05.2023 already issued by respondent No.4 Tahsildar, Malegaon to the Deputy Superintendent of Land Record, Malegaon and take the aforesaid proceedings to its logical end.

10. Learned Counsel for respondent Nos.5 and 6 undertakes to cooperate the aforesaid authority in the decision of the aforesaid application. The contention raised by the learned Counsel for the respondents before this Court are kept open.

11. Respondent No.4 is directed to decide the aforesaid application dated 10.08.2022 within a period of six weeks from the date of receipt of this Court's order. Learned Counsel for the petitioner undertakes to produce a copy of this order before Respondent No.4 within a period of one week from today.

12. The decision taken thereupon shall be communicated to the petitioner within a period of two weeks from the date of such decision.

13. Needless to mention, all the grounds raised in the petition, as well as the contentions advanced by the learned Counsel for Respondent Nos.5 and 6, are kept open.

14. Writ Petition is accordingly disposed of.

(RAJ D. WAKODE, J.)

(ANIL S. KILOR, J.)

R.S. Sahare