



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

WRIT PETITION NO.5838 OF 2025

Damodar Khushal Kadu (Dead) through LR's and Others

Vs.

State of Maharashtra and Others

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. H.S. Puranik, Advocate for the Petitioners.

Mr. H.R. Dhumale, AGP for Respondent Nos.1 to 3/State.

Mr. R.M. Wasnik, Advocate for Respondent No.4.

CORAM: PRAFULLA S. KHUBALKAR, J.

DATED : 04th MARCH, 2026

1. Heard learned counsel for the petitioners as well as learned counsels for the respondents.
2. The petitioners' challenge is to the Order dated 07.08.2025 passed by the respondent No.3-Mamlatdar, Mouda in Revenue Case No.04/MCA-5/2024-25, Mouza-Tuman, Tah. Mouda, Dist. Nagpur, by which a right of way has been granted through the land belonging to the petitioner.
3. Learned counsel for the petitioner submits that the respondent No.4 had earlier filed an application on 24.01.2021 before the Mamlatdar Court, Mouda, wherein, the order dated 06.09.2022 was passed directing that respondent No.4 be granted an approach way of about 15 Feet to approach to his land and the petitioners should not cause any obstruction in the said right of way. He further submits that the said order was not implemented and thereafter, respondent No.4 filed a separate application

before the Mamlatdar Court, Mouda, seeking review of the Order dated 06.09.2022. This application came to be allowed by Order dated 07.08.2025 whereby, another right of way was granted to the respondent No.4, passing from the land belonging to the petitioner. He therefore, submits that the Mamlatdar Court, Mouda has passed the Order dated 07.08.2025 by reviewing its own earlier order dated 06.09.2022, which is not permissible in law.

4. Learned counsel for the respondents does not dispute the position that although the Order dated 06.09.2022 was passed, since it was found non-executable, respondent No.4 filed a fresh application before the Mamlatdar Court, Mouda and the second order dated 07.08.2025 came to be passed. Learned counsel for the respondents also does not dispute the contention that the Mamlatdar Court does not have powers to review its own order.

5. It is further pointed out that the order dated 06.09.2022 passed by the Mamlatdar Court, Mouda was challenged by the respondent No.4 by filing an Appeal under Section 247 of the Maharashtra Land Revenue Code, 1966, instead of challenging the same by way of filing a revision application under Section 23(2) of the Mamlatdar Courts Act, 1906 (for short "the Act").

6. The grievance raised by the respondent No.4 for grant of an approach way to his land, however, needs to be independently considered by the Competent Authorities. The respondent No.4 is at liberty to file revision application before the Competent Authority under Section 23(2) of the Act, challenging the Order dated 06.09.2022. The

respondent No.4 is also entitled to file a separate application before the respondent No.3-Mamlatdar Court seeking appropriate approach way to his land in accordance with law.

7. Considering the controversy involved in the petition, it is clear that the impugned order is passed by the Mamlatdar Court, by reviewing its earlier order. Hence, the impugned order dated 07.08.2025 passed by the Mamlatdar Court is unsustainable in law and deserves to be quashed and set-aside.

8. In view of this, the writ petition is **allowed**. Order dated 07.08.2025 passed by the respondent No.3 is quashed and set-aside. Respondent No.4 is at liberty to initiate appropriate proceedings as observed above.

9. It is made clear that in case any application is filed by respondent No.4 for an approach way to his land either before the respondent No.3 or by way of revision application under Section 23(2) of the Act, respondent No.4 will be entitled to point out the fact of pendency of the instant petition in support of his contentions for condonation of delay.

10. In view of above, the writ petition is **disposed of**.

(PRAFULLA S. KHUBALKAR, J.)

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