

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3414 OF 2015

Anil S/o Kashinath Chelkar,
Age: 58 years, Occup. Agril.,
R/o Killariwadi, Tq. Ausa,
Dist. Latur.

...PETITIONER

versus

The State of Maharashtra & ors.

...RESPONDENTS

.....

Mr. S. N. Lale Yelwatkar, Advocate for Petitioner
Mr. S.K. Tambe, A.G.P. for respondents No. 1 to 3.

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 6th APRIL, 2015

Order :-

1. After hearing learned counsel for petitioner, it transpires that suit in effect has been against the respondents including Tahsildar opposing right of way through the field of the petitioner. For inspection of the property, petitioner had filed an application for appointment of court commissioner, which came to be rejected under order dated 29-01-2015 and the order of temporary injunction on Exhibit-5 in Regular Civil Suit No. 410 of 2014 was passed by Joint Civil Judge, Junior Division, Ausa on 23-02-2015 rejecting application of the petitioner. The petitioner apprehends that the way is likely to be given to other defendants on 7th April, 2015.

2. Since the petitioner has alternate efficacious remedy available, I am not inclined to interfere with the impugned order dated 23-02-2015. It is open for the petitioner to avail of appropriate remedy as would be available in law before appropriate forum.

3. It also appears that apprehension expressed by the petitioner is fallout of order dated 23-02-2015, as such, the petitioner should apply for appropriate orders in proper proceeding within a period of one week. Till such date, action apprehended may be deferred. Petition stands rejected.

4. It is further made clear that the observations as aforesaid are of no consequence so far as merits of matter is concerned and shall not be deemed to be so in any proceedings.

5. Parties to act upon the authenticated copy of this order.

(SUNIL P. DESHMUKH, J.)

MTK