

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

WRIT PETITION NO. 4841 OF 2015

Uttam S/o Dagduji Bhagat,
Age: 67 years, Occu- Agriculture,
R/o Mhaigavan, Tal. Kalamnuri,
Dist. Hingoli.

...PETITIONER

versus

1. The Additional Collector,
Collector Office, Hingoli,
Tq. And Dist. Hingoli.
2. The Tahsildar, Kalamnuri,
Tahsil Office, Kalamnuri,
Tq. Kalamnuri, Dist. Hingoli.
3. Piraji W/o Waman Balkhande,
Age: 42 years, Occu. Agriculture,
4. Hiranman S/o Yadav Ingole,
Age: 65 years, Oc. Agriculture,
5. Bhimrao S/o Gyanuji Balkhande,
Age: 56 years, occu. Agriculture,
6. Baliram S/o Gyanuji Balkhande,
Age: 57 years, occu. Agriculture,
7. Ranga S/o Ramchandra Kale,
Age: 66 years, Occ. Agriculture,

Resp. Nos. 3 to 7:
R/o Mhaigavan, Tq. Kalamnuri,
Dist. Hingoli.

...RESPONDENTS

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Mr. S.R. Andhale, Advocate for Petitioner
Mr. S.K. Kadam, A.G.P. For respondents No. 1 and 2
Mr. R.M. Giri, Advocate for respondents No. 3 to 7

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CORAM : SUNIL P. DESHMUKH, J.

DATED : 6th AUGUST, 2015

ORAL JUDGMENT :-

1. Rule. Rule made returnable forthwith and heard the learned counsel for petitioner and appearing respondents finally, with consent.

2. After hearing learned counsel for petitioner and respondents, it transpires that present respondents No. 3 to 7 were not parties to the proceedings originally filed by present petitioner seeking access to his field bearing Gut No. 77/3 of village Rupur, Ta. Kalamnuri, Dist. Hingoli. Under the circumstances, present respondents had posed challenge to order dated 12-04-2013 of the tahsildar in file No. 2012/Jama-1/Rasta/Kavi, before additional collector, Hingoli in revision bearing No. 2013-MCA-2003. The additional collector under his order dated 16-01-2015 has set aside order passed by the tahsildar granting way and right of way over the boundaries of Guts No. 78/1, 78/2, 78/3, 78/4, 78/4/1, 78/4/2 and 78/5 of village Rupur, Ta. Kalamnuri, Dist. Hingoli .

3. Thus, the situation boils down to that petitioner's request stands turned down for the reason that present respondents were not parties. In such a case, it would be expedient that proceedings filed before tahsildar, Kalamnuri to be allowed to be re-agitated by present petitioner by giving opportunity for removal of lacunae as appearing in the application and to add relevant persons as parties to the same.

4. In view of aforesaid, order dated 12-04-2013 in file No. 2012/Jama-1/Rasta/Kavi passed by Tahsildar Kallamnuri and order dated 16-01-2015 in revision bearing No. 2013-MCA-03 passed by the additional collector stand set aside.

5. Application filed by present petitioner before tahsildar stands restored to its original position as was subsisting before passing order dated 12-04-2013 in file No. 2012/Jama-1/Rasta/Kavi with opportunity as referred to hereinabove. Tahsildar to consider the matter afresh on removal of deficiencies, if an attempt is made therefor, by letting the opportunity to the petitioner. In case of failure of petitioner to act as above authorities would pass appropriate order.

6. Writ petition stands allowed. Rule is made absolute accordingly.

Sd/-

(SUNIL P. DESHMUKH, J.)

MTK