

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

WRIT PETITION NO. 4707 OF 2014

Madhukar s/o Bansi Rokade

.. PETITIONER

VERSUS

The State of Maharashtra
& others

.. RESPONDENTS

Mr. Hemant Surve, advocate for petitioner.
Mr. C.V. Dharurkar, AGP for the State.
Mr. V.P. Patil, advocate for respondents 3 and 4.
Mr. U.S. Malte, advocate for respondent no. 5.

=====

CORAM : R.M. BORDE, J.

DATE : 21st DECEMBER, 2015.

PER COURT :

1. Petitioner is objecting to the directions issued by the Collector to the Deputy Superintendent, Land Records, Dharangaon, to measure the property belonging to the petitioner so as to assess the encroachment or illegal construction allegedly made by petitioner in respect of the residential property.

2. Application has been tendered against petitioner by respondents for initiating action under section 44 of the Maharashtra (Municipal Councils), (Nagar Panchayats) and Industrial Townships Act, 1965 and, while dealing with the proceeding, interim direction has been issued by the Collector. Learned counsel for petitioner contends that since the dispute of civil nature is pending before the Civil Court, it is not permissible for the Collector to issue such directions and record findings in respect of the subject matter

which is under consideration of the Civil Court.

3. Without going into the objections raised by petitioner, since it is observed that the challenge is raised to the interim direction issued by the Collector during the pendency of proceeding initiated under section 44 of the Act of 1965, it is desirable that this petition be disposed of by granting liberty to the petitioner to raise appropriate contention before the Collector. Writ petition need not be entertained since the challenge raised is in respect of the interlocutory proceeding. The Collector may proceed with the matter in accordance with the provisions of law however, it would be open for the petitioner to raise appropriate objection and put forth his grievances before the Collector including permissibility of issuance of directions which are impugned in this petition relating to measurement of his property through the Deputy Director, Land Records, Dharangaon and in respect of providing police protection for causing such measurement. If petitioner raises such objections, it would be appropriate for the Collector to consider same and render decision in the proceeding pending before him, in accordance with the provisions of law.

4. With liberty as aforesaid, writ petition stands disposed of.

(R. M. BORDE)
JUDGE