

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

910 WRIT PETITION NO. 3637 OF 2015

SURESH PANDHARINATH KHARAT
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Irale Patil D.r.
AGP for Respondents 1 to 3 : S.N. Kendre
Advocate for Respondent 4 : R.R. Karpe

...

CORAM : T.V. NALAWADE, J.
DATED : 31st August, 2016.

ORDER :

1. The petition is filed to challenge the order made by the Office of District Superintendent Land Record by which the petitioner is asked to deposit necessary fees for superior Nimtana measurement. Both the sides are heard.

2. It appears that petitioner is owner of land Gat No. 141 ademeasuring 41 R. and respondent No. 4 is owner of land Gat No. 145. It is the case of petitioner that in the year 1985 when the first measurement was taken, the measurement was done correctly and no encroachment was shown. According to him, in the year 2012 petitioner had again taken the measurement and that measurement was also correctly done. According to the petitioner, when respondent No. 4 took

measurement in the year 2012, it was reported that there was some encroachment made by owner of land Gat No. 141. According to the petitioner, then he applied for making correction in that record as in the past on two occasions when the lands were measured no encroachment was noticed. On this correspondence, the office of District Superintendent Land Records gave reply that the petitioner needs to pay Rs. 9,000/- for going for Nimatana measurement. He paid Rs. 9,000/- for Nimatana measurement. In the Nimatana measurement also encroachment is still shown. He feels aggrieved and requested to correct the record of measurement. it needs to be corrected. He had applied to the office of District Superintendent, but District Superintendent directed to pay again fees for one more measurement for superior Nimtana measurement, and due to that he is feeling aggrieved and so, the present proceeding is filed.

3. The learned counsel counsel for petitioner drew attention of this Court to the order made after inquiry by the office of District Superintendent of Land Records dated 16.10.2015. The office gave hearing to both the sides and it was observed that one proceeding was pending in the High Court and so, there was no question of making correction in the

measurement. Present petitioner can go for superior Nimtana measurement if there is grievance of aforesaid nature. The grievance can be addressed only by another measurement which is generally made by Superior Officer. Without taking measurement, there cannot be question of making correction in the measurement made by some officer because that power is not there with the office and it will be only considered as complaint against the said officer.

4. The learned counsel for petitioner submitted that petitioner is poor agriculturist and he cannot afford to make payment of superior Nimtana measurement and the amount will be around Rs. 37,000/-. It can be said that nothing can be done in that regard. It is open to the petitioner to go to Civil Court. Other options are kept open.

5. Petition is dismissed in view of the aforesaid observations.

[T.V. NALAWADE, J.]

ssc/