

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 4442 OF 2015

KUSHABA DHANARAJ DALVI AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Ankush N. Nagargoje.
AGP for Respondent Nos.1 to 4 : Mr. S. G. Karlekar.
Advocate for Respondent No.7 : Mr. R. D. Sanap.
Advocate for Respondent No.8 : Mr. N. L. Jadhav.

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CORAM : S. V. GANGAPURWALA &
A. M. BADAR, JJ.

DATE : 3rd FEBRUARY, 2016.

PER COURT:

1] This writ petition assails the permission granted to respondent No.8, so also, makes various prayers with regard to the representations filed by petitioners. According to Mr. Nagargoje, learned counsel for petitioners, the petitioners are villagers. Because of construction permission granted and carried out by respondent No.8, road is obstructed. Access is blocked. According to learned counsel, even the then Tahsildar had directed inspection. The Circle Officer had carried out the inspection and found that there is obstruction. Petitioners cannot approach the Highway because of obstruction.

2] Per contra, Mr. Jadhav, learned counsel for the respondent No.8, states that the petitioners do not have any *locus standi*. There is no road in existence. Construction is not yet done. Permission is rightly granted. There is no road in existence as claimed by the petitioners.

3] Respondent No.4 has filed an affidavit on record. As per the

learned AGP, the Tahsildar has filed an affidavit stating that plot No. 8 exists. Same is nowhere notified as road in any of the record including the village map as per the Government Record.

4] Whether the road exists or not would be a disputed question of fact. The layout which is sought to be relied upon by the petitioner does not appear to be a sanctioned layout. Respondent No.4 has filed an affidavit and stated that as per the record, plot No.8 exists and it is not a part of the road. It is submitted that in April, 2015, Municipal Council, Patoda has come into existence in place of a village panchayat. As such, smaller urban areas have been constituted. It is the Municipal Council which would be competent to take into consideration the location of the road etc.

5] The petitioners may approach the Municipal Council, with regard to their grievance. The Municipal Council, after receipt of representation from the petitioners, shall give notice to respondent No.8 and after hearing all concerned, shall take decision upon the same, expeditiously in accordance with law. Writ petition is disposed of.

[A.M. BADAR]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

grt/-