

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

WRIT PETITION NO. 10693 OF 2015

Inderlal Tulromal Kamora .. Petitioner

Versus

The State of Maharashtra and Others .. Respondents

Shri A. H. Kasliwal, Advocate for the Petitioner.

Shri S. N. Morampalle, A. G. P. for the Respondent No.

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.**

DATE : 18TH JANUARY, 2016.

PER COURT :-

1. Mr. Kasliwal, the learned counsel for the petitioner submits that, the respondent No. 8 had filed writ petition No. 5075 of 2009. The said writ petition is disposed of vide order dated 17th February, 2014. In the said writ petition, pursuant to the orders passed by this Court measurement was carried out and map was prepared by the Deputy Superintendent of Land Records. The said map was placed on record. This Court disposed of the writ petition. According to the learned counsel, the petitioner and respondents in the said writ petition were not concerned with the said writ land. In fact, the land was taken in Government supervision in proceedings under Section 145 of Criminal Procedure Code and it is still in their custody. The rights of the present petitioner are affected by orders passed in writ petition No. 5075 of 2009.

2. This Court in writ petition No. 5075 of 2009 has passed the following order on 17th February, 2014, while dismissing of the writ petition -

“1] In terms of our earlier directions, the Deputy Superintendent of Land Records has carried out the measurement and has prepared a map and the same is placed before us.

2] It is stated that the map denotes the extent of encroachment on the Zilla Parishad land.

3] There may be dispute in terms of the actual encroachment and the extent thereof, but what we find is, that once the petitioner’s grievance has been redressed, the writ petition cannot be kept pending.

4] Taking the copy of survey and measurement on record and marking them “X” for identification, writ petition is disposed of.

5] We clarify that we have not expressed any opinion on the rival contentions and particularly, the contents of the map and the alleged encroachment, if any, on the land granted to the Zilla Parishad. All contentions in that regard are kept open.

6] Writ petition is disposed of with these directions. A copy of the measurement and survey including the map, be provided to all parties, on payment of usual charges, costs and expenses.

3. Perusal of the said order and more particularly para 5 of the same, it is clear that the Court has not expressed any opinion on the rival contentions and particularly the contents of the map and the alleged encroachment if any on the land granted to the Zilla Parishad. All contentions in that regard are kept open. The Court in the said writ petition has not given any dictum with regard to the rights of the parties in the writ land of the said writ petition.

4. If, any party is aggrieved by the measurement that is carried out, there is no impediment for any of the interested or

aggrieved party to take up such appropriate steps in respect of the said measurement before the Appropriate Authorities as is permissible in law.

5. As no rights have been adjudicated in the earlier writ petition No. 5075 of 2009, we dispose of the writ petition. It is made clear that, we have not considered the contentions of the petitioner on merits in the present writ petition. All contentions are kept open.

6. The writ petition is accordingly disposed of. No costs.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]

sam/Jan.15