

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

WRIT PETITION NO. 8433 OF 2015

Namdeo Mohan Dhumal and Others ..PETITIONERS

VERSUS

Raosaheb Jagannath Aware and Others ..RESPONDENTS

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Mr. N.C. Garud, Advocate for petitioners.

Mr. K.N. Lokhande, Advocate for Respondent No.1.

Mr. S.K. Tambe, A.G.P. for Respondent Nos. 2 and 3.

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CORAM : T.V. NALAWADE, J.

DATED : 16th DECEMBER, 2016

ORDER :

1. Both sides are heard. Order made by Tahsildar shows that he has recognised only right of the respondent to use some portion as footpath. It appears that petitioner has apprehension that respondent will use his land and most of the portion as cart way and due to that he may not be in a position to cultivate his land. This apprehension is not having any basis.

2. The record like panchanama shows that the existence of only footpath was noticed for having access to respondent. It is necessary to

have such footpath and it is having width around four feet. If it is possible, then the Dhura or common bandh can be used as footpath and not the portion under cultivation. If there are no footpath, then the portion at extreme western side of the land of the petitioner having aforesaid width can be used and after going to the end of western side, extreme northern side is to be used. With this clarification, the proceeding is disposed of. The respondents are not expected to use any portion for taking bullock cart, tractor, truck, etc.

3. In the sale deed which was executed, no right is given to the respondent to use the land. If the purchaser – respondent wanted some portion, it was necessary for him to put such term in the sale deed and obtain the signature of present petitioner. In absence of such record, no such right can be given.

(T.V. NALAWADE, J.)

SSD