

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

WRIT PETITION NO. 9597 OF 2016

Pralhadrao Narayan Naik

..PETITIONER

VERSUS

Kamalbai Panjabrao Naik

..RESPONDENT

....
Mr. D.M. Shinde, Advocate for petitioner.

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**CORAM : T.V. NALAWADE, J.
DATED : 23rd SEPTEMBER, 2016**

ORDER :

1. The petition is filed to challenge the order made on Exhibit 125 in Regular Civil Suit No. 113 of 2010. The suit is filed by present respondent against present petitioner for relief of possession under Section 6 of Specific Relief Act.

2. The present petitioner wants to examine Nayab Tahsildar as during the enquiry made for making entry in 7B column of 7/12 extract, Nayab Tahsildar had visited the spot for inspection and panchanama was prepared by him on 30th November, 2009. The entry made during that enquiry was challenged by present respondent and said entry is set aside and fresh enquiry was ordered. Though it can be said that crop enquiry is

to be made every year, as there is order of this Court, it is to be presumed that the previous enquiry is not believed. This reason is given for rejecting the application by the Trial Court.

3. There is one more circumstance due to which such application could not have been allowed. Under the Maharashtra Land Revenue Code, Tahsildar is expected to make crop enquiry for making entry in 7/12 extract every year. The entry made by him is subject to appeal to the appellate authority and there is scheme provided for making entry and making challenge to the said entry. Thus the functions of Tahsildar are of authority required to give decision.

4. In view of these circumstances, this Court holds that the Civil Court is not expected to call Tahsildar as witness in such enquiry. It can be said that present petitioner wants to prove that from prior to the relevant date he was in possession. That can be proved by using other circumstances but not the way which the petitioner wants to use. This Court finds no reason to interfere in the order made by the Trial Court. Petition stands dismissed.

(T.V. NALAWADE, J.)

SSD