

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

WRIT PETITION NO. 12438 OF 2015

Iqbal Banemiya Maniyar and Others

..PETITIONERS

VERSUS

Bhagwant @ Bhawant Ramchandra Waghmare
and Others

..RESPONDENTS

....

Mr. P.S. Dighe, Advocate h/f Mr. V.R. Dhorde, Advocate for petitioners.
Mr. A.P. Basarkar, Advocate for Respondent Nos.2 to 4.

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**CORAM : T.V. NALAWADE, J.
DATED : 04th OCTOBER, 2016**

ORDER :

1. The petition is filed to challenge the order made by the Civil Judge, Senior Division, Kopergaon on application at Exhibit 43 which is filed by the present petitioners as intervenors. Heard both sides.

2. The suit is filed by Respondent No.1 for relief of declaration and injunction. Plaintiff is feeling aggrieved due to the act of the Government and other respondents of taking steps to see that the alleged obstruction created on Shiv – boundary road are removed. He contends that encroachment is being made in his land for creation of Shiv Rasta.

3. The intervenors want to prove that there was Shiv Rasta in existence and plaintiff has created obstruction on Shiv Rasta. Due to Shiv Rasta, the intervenors will be benefited and to see that the matter is defended properly, the intervenors want to come on record. The learned Counsel for petitioners took this Court through the record of the steps taken by the Government like scheme prepared for removal of obstructions created on public way at all places and he submitted that present action is also part of that exercise. The learned Counsel for petitioner places reliance on case reported in **2013(1) All M.R. 714 (Aurangabad Bench) (Dada Nimse Vs. The Collector, Ahmednagar and Others)**. In that case when there was obstruction on public way, the intervention was allowed.

4. In view of the facts of the present matter and submissions made, it can be said that the applications like Exhibit 43 create unnecessary hurdle in deciding the suit. It appears that the suit was filed in the year 2014 and interim relief is granted by the Trial Court in favour of the plaintiff. The present writ petition came to be filed on 27th November, 2015 and it can be said that the Trial Court must not have made progress only due to pendency of the present proceeding. It appears that State is taking some steps in the interest of public at large

and in such cases, the persons who are benefited or affected can observe the proceeding and at the most those persons can be examined as witnesses by both the sides.

5. In view of these circumstances, this Court holds that Trial Court has not committed any error in rejecting the application filed for intervention. Petition stands dismissed. The Trial Court is expected to expeditiously dispose of the suit and in any case within six months from the date of receipt of this order.

(T.V. NALAWADE, J.)

SSD