

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 171 OF 2017

DNYANESHWAR GUNWANTRAO YADNEKAR

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

Mr. S.S. Thombre, Advocate for the petitioner

Mr. D.R. Kale, A.G.P. for the respondent/State

**CORAM : S.C. DHARMADHIKARI &
MANGESH S. PATIL, JJ.**

DATE : 05-07-2017

ORAL ORDER :

1. After having heard Mr. Thombre, learned counsel for the petitioner at some length, we find that on 21/12/2016, the petitioner was informed by the Collector, District Jalna, that though he has claimed that he can install a petrol pump on immovable property, particularly described as Gut No. 110, Mauje Ramnagar, Taluka and District Jalna, a complaint is received from one Sham Pralhad Rathod and Arjun Sugar Industries Pvt. Ltd., that they have right, title and interest in this land and which is claimed by the petitioner. Since there is a dispute raised, the petitioner was told

not to carry out any construction, unless the same is resolved and in accordance with law.

2. We cannot fault District Collector, Jalna, for addressing such communication when written complaint is received in his Office. He is bringing it to the notice of the petitioner.

3. If the petitioner is of the opinion that there is undue obstruction and interference by Sham Pralhad Rathod and Arjun Sugar Industries Pvt. Ltd., then, he cannot blame the Collector or State machinery for it's inability to render him assistance but he must approach a Competent Civil Court and establish his right, title and interest in the property. The petitioner is also free to seek restraint against any obstruction or interference caused by any third party.

4. We do not think that Arjun Sugar Industries Pvt. Ltd. being controlled by one of the Ministers and his brother, would influence the Civil Court from granting relief and in accordance with law.

5. In such circumstances, there is a clear dispute of fact, due to which, we are unable to interfere in writ jurisdiction. Writ petition is disposed of.

6. At this stage, Mr. Thombre would submit that let the dispute be resolved by the Collector of the District, before whom the petitioner will appear and produce all the title documents.

7. We do not think that in the scheme of Maharashtra Land Revenue Code, 1996, any such powers, as are conferred in a Civil Court, can be allowed to be taken over by the Collector. That would be travesty of justice. This submission is therefore rejected.

[MANGESH S. PATIL]
JUDGE

[S.C. DHARMADHIKARI]
JUDGE

arp/