

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

WRIT PETITION NO. 7033 OF 2016

- 1 Bhausahab s/o Shivram Walke
age 58 years, occ. Agril
 - 2 Shivaji s/o Bhausahab Walke
age 30 years, occ. Agril
 - 3 Ambadas s/o Bhausahab Walke
age 28 years, occ. Agril
- All r/o Kasara Dumala
Tq. Sangamner,
Dist. Ahmednagar

.. PETITIONERS

VERSUS

- 1 Badshaha s/o Karbhari Satpute
age 53 years, occ. Agril
 - 2 Uttam s/o karbhari Satpute
age 41 years, occ. Agril
 - 3 Tulshiram s/o Karbhari Satpute
age 39 years, occ. Agril
 - 4 Dagdu s/o Karbhari Satpute
age 38 years, occ. Agril
 - 5 Rajendra s/o Rambhau Satpute
age 44 years, occ. Agril
- All r/o Kasara Dumala
Tq. Sangamner, Dist. Ahmednagar
- 6 The Sub-Divisional Officer
Sangamner, Tq. Sangamner
Dist. Ahmednagar
 - 7 The Tahsildar, Sangamner
Tq. Sangamner, Dist. Ahmednagar

.. RESPONDENTS

Mr. R.L. Kute, advocate for petitioners.
Mr. A.P. Basarkar, AGP for respondents no. 6 and 7.
Mr. S.S. Dixit, advocate for respondents 1 to 5.

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CORAM : S. B. SHUKRE, J.
DATE : 6th MARCH, 2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith.
2. Heard finally by consent of learned counsel for the respective parties.
3. Legality and correctness of the order dated 10th September, 2015 passed by the learned Sub-Divisional Officer, Sangamner, is under challenge in this petition.
4. Perusal of the impugned order shows that the learned Sub-Divisional Officer has formed the view on the basis of the material available before him that respondents were using the road which was lying towards western side of survey no. 14. This view cannot be said to be perverse as it is based upon material available on record. There are admissions given by petitioners in the written statement filed in Regular Civil Suit No. 62/2004. Of course, learned counsel for petitioners submits that there was also a map annexed to the written statement which shows that what was existing towards southern side of survey no. 14 was only path way jointly used by petitioners and some of the respondents. This may be true. But the fact remains that there is also admission given in the written statement. Therefore, just because another view is possible after considering the facts and circumstances of the case available on record, this Court not being the appellate court, cannot interfere with the view taken by learned Sub-

Divisional Officer. In order to make any interference by this Court, it is necessary that it is demonstrated that the view taken is illogical and based upon some extraneous facts, which is not here. If any disputed question of fact is there, the petitioners shall be at liberty to seek redressal of grievance by approaching Civil Court.

5. In this view of the matter, I do not see any merit in the petition. The petition stands dismissed. Rule discharged. No costs. Observations of this Court shall not come in the way of petitioners in approaching the civil Court for redressal of their grievance. If civil suit is filed, the civil Court shall not be influenced by these observations.

(S. B. SHUKRE)
JUDGE

dyb