

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6995 OF 2016

KANCHAN ASHOK JADHAV
VERSUS
THE DISTRICT COLLECTOR AND OTHERS

Advocate for Petitioner : Shri P.P. Mandlik.
AGP for Respondent Nos. 1 & 2 : Shri S.K. Tambe.
Advocate for Respondent No. 3 : Shri A.S. Bajaj.

CORAM : RAVINDRA V. GHUGE, J.
Dated : 12th June, 2017

PER COURT :-

1. The petitioner is aggrieved by the judgment and order dated 13/06/2016, by which, Miscellaneous Civil Appeal No. 20/2016, filed by the respondent No. 3 has been allowed.
2. I have considered the submissions of Shri Mandlik, learned advocate for the petitioner, the learned AGP and Shri Bajaj learned counsel for respondent no. 3.
3. It is not in dispute that the petitioner is in possession of land, admeasuring 1 Hectare 70 Ares in Gut No. 6, in a place by

name Abdimandi, Tq. & Dist. Aurangabad. Respondent No. 3 is the owner of the land situated in Gut No. 21, which is adjacent to the land of the petitioner. He had applied for seeking a path by way of an approach road, to his Gut No. 21, through the land of the petitioner in Gut No. 6. The application was allowed by the Tahsildar on 22/05/2015.

4. The petitioner filed RCS No. 578/15, seeking perpetual injunction against respondent No. 3. Application Exhibit 5 seeking interim order was allowed on 06/01/2016, and status quo was directed to be maintained. Respondent No. 3, preferred the appeal against the said order which has been allowed by the impugned judgment and order.

5. It is stated that the petitioner has approached the Sub Divisional Officer (SDO) challenging the order of the Tahsildar dated 22/05/2015. In the meanwhile, the Talathi of Abdimandi had prepared a panchnama dated 20/06/2016, indicating that all obstructions in the path of respondent No. 3, from approaching his land from the land of the petitioner have been

removed and the road is now being used by respondent No. 3 to approach his land.

6. Considering that the petitioner was praying for injunction and keeping in view that the order of the Tahsildar has been implemented, I do not find any reason to interfere with the impugned judgment. This petition being devoid of merit, is therefore, dismissed.

7. Learned counsel for the petitioner prays that RCS No. 578/15, be expedited. Considering that the suit is not very old, and also keeping in view the pendency before the Trial Court, I do not think the order to expedite the suit is necessary. Suffice it to say, the petitioner would be at liberty to apply to the Trial Court for an early hearing. If such an application is filed, the Trial Court shall consider it on its own merits.

(RAVINDRA V. GHUGE, J.)