

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

910 WRIT PETITION NO. 9750 OF 2017

BHARAT VANKATRAO NARAGUDE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. S. G. Jadhavar.
AGP for Respondent Nos.1 to 3 : Mr. N. T. Bhagat.
...

CORAM : **V. K. JADHAV, J.**
DATE : 21st November, 2017.

ORDER:

. Being aggrieved by the order passed by the Tahsildar, Udgir dated 27th January, 2017 and the order passed by the Sub Divisional Officer, Udgir dated 14th July, 2017 confirming thereby the order passed by the Tahsildar, the present Petitioner has approached to this Court by filing the present writ petition.

2 On 12th February, 2016, Respondent Nos.3 to 18 herein have filed the application before Respondent No.3 / Tahsildar, Udgir stating therein that though there is a path way in existence since many years, the present Petitioner has obstructed the said path way. The Respondents thus, requested Respondent No.3 / Tahsildar to open the said path way by removing the encroachment. The learned Tahsildar

by impugned order dated 27th January, 2017, allowed the said application and the Sub Divisional Officer, Udgir has confirmed the said order. Hence, this writ petition.

3 The learned counsel for Petitioner submits that the said road is not a cart way, but it is a path way. However, the learned Tahsildar vide impugned order has allowed the application and directed to open the cart way. The learned counsel submits that even the District Superintendent of Land Record has given the report to the Tahsildar that the said way is not in existence when the land was measured at the time of implementation of consolidation scheme in the village and as such, the said road was not shown in the subsequent record maintained by the said office. The learned counsel submits that in spite of the same, the Tahsildar has passed the impugned order.

4 The learned AGP submits that the learned Tahsildar has mentioned in the impugned order a path way and not a cart way as submitted by the learned counsel for Petitioner. It has been specifically observed in the impugned order passed by the Tahsildar that only Petitioner is obstructing the said way and other encroachers have removed their obstructions on the aforesaid path way on their

own. It has been also observed in the impugned order that if the said road is opened, that would be convenient for all the villagers including the Petitioner and the Respondents.

5 On careful perusal of the documents placed along with the writ petition and the impugned orders passed by the authorities below, it appears that the learned Tahsildar after considering the report submitted by the Circle Inspector, village map and after giving an opportunity of being heard to the Petitioner, has directed to remove the encroachment made by the present Petitioner by erecting the fencing on the aforesaid road itself. It has been specifically observed in the impugned order that villager Mr. Madne has removed his encroachment over the said road from his side, however, the present Petitioner though assured, is not removing the fencing. The learned Tahsildar has therefore, observed that the present Petitioner is only obstructing the said path way. I do not think that the apprehension expressed by the learned counsel on behalf of the Petitioner is well founded. The learned Tahsildar has mentioned in his order about the path way and not about the cart way and accordingly, directed to remove the obstructions made over the said path way by the Petitioner. In view of the same, I do not find any fault in the impugned

orders. There is no merit in the writ petition. The writ petition is hereby dismissed. No costs.

[V. K. JADHAV, J.]

ndm