

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

WRIT PETITION NO.10207 OF 2015

Aajamkhan Majidkhan Pathan
Age 50 years, Occu. Agril.,
R/o Village Rithi, Tq. Kannad,
District Aurangabad

... PETITIONER

VERSUS

1. Divisional Additional Commissioner,
Aurangabad
(Copy to be served on
Govt. Pleader, High Court of
Judicature of Bombay,
Bench at Aurangabad)
2. The Additional Collector,
Aurangabad, Taluka and
District Aurangabad
3. The Tahsildar, Kannad,
Taluka and District Aurangabad
4. Sow. Shantabai Sarichand Rathod,
Age major, Occu. Agril. & Sarpanch,
R/o Village Moharada, Tq. Kannad
Group Grampanchayat Rithi Moharda,
Tq. Kannad, District Aurangabad.

... RESPONDENTS

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Shri S.A. Dhengale, Advocate for petitioner
Shri S.B. Pulkundwar, A.G.P. for State
Shri R.V. Gore, Advocate for respondent No.4
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CORAM: S. B. SHUKRE, J.

DATED: 25th January, 2017.

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally by consent of learned counsel for the parties.

2. On perusal of the order which has been impugned in this petition, dated 14/8/2015, passed by learned Tahsildar, Kannad, I find that there is neither any patent illegality nor perversity therein. Learned Tahsildar has observed, based upon the remarks of learned Additional Divisional Commissioner, Aurangabad that the issue of encroachment allegedly made by respondent No.4 is subjudice and the competent Court is seized of the matter and, therefore, any final conclusion at this stage will be premature. There is no change in the circumstance when the impugned order is passed. Therefore, it cannot be said that the impugned order is perverse or arbitrary.

3. Learned counsel for the petitioner has tried to canvass before the Court that, previous order passed by the Additional Divisional Commissioner is perverse, but admittedly that order of remand was not challenged by the petitioner.

Therefore, now it does not lie in the mouth of the petitioner to say that it is illegal at a stage when the order has been implemented also and we have before us the latest order dated 14/8/2015, which has been impugned in this petition.

4. In this view of the matter, I find no substance in the Writ Petition. The Writ Petition is dismissed with costs. Rule is discharged.

(S. B. SHUKRE)
JUDGE

fmp/wp10207.15