

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 23 OF 2017

Raghunath Tatyaba Garje & Anr. **Petitioners**

V E R S U S

The State of Maharashtra & Ors. **Respondents**

Mr. N.K. Tungar, Advocate for the petitioners
Smt. M.A. Deshpande, Addl.G.P. for
respondent nos.1 to 6

**CORAM : S.V.GANGAPURWALA AND
K.L. WADANE, JJ.**

DATE : 20TH FEBRUARY, 2017

PER COURT :

1. Mr. Tungar, learned counsel for the petitioners submits that the petitioners are the owners and possessors of their respective lands, situated at village Kapsi, Taluka Ashti, District Beed. Some villagers from village Doithan made application to respondent No.3 – Tahsildar, Ashti stating therein that there is no road to go to village Doithan. On the basis of the same, the respondents –

authorities on 26th August, 2016 alongwith police protection entered into the petitioners' land without giving notice to them and by using J.C.B. machine has destroyed the standing crop of petitioners. The same was resisted. The respondents do not have any authority to dispossess the petitioners without following due process of law.

2. Learned Additional Government Pleader states that some of the villagers have resorted to fast unto death, and under police protection only the measurement of the land has been done. The petitioners did not raise any objection at the time of measurement.

3. In case, the petitioners have legitimate claim occupying their landed properties, then the respondents cannot dispossess them without adhering to the due procedure of law. It is trite that, a person cannot be dispossessed from his property except in accordance with the due procedure of law. Considering the above, we pass the following order :-

O R D E R

1. In case, the petitioners are legitimately occupying the property, then the respondents shall not dispossess them except in accordance with due procedure of Law.
2. As far as payment of compensation for damage of crop is considered, the petitioners may avail the other remedy which may be available in due course of Law.
3. Writ Petition accordingly is disposed of. No costs.

(K.L. WADANE, J.)

(S.V. GANGAPURWALA, J.)

