

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2220 OF 2018

JANARDHAN GOPALA AVHAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Advocate for Petitioner : Mr. A.G. Ambetkar.
AGP for Respondent Nos. 1 to 3 : Mr. V.S. Badakh.
Advocate for Respondent No. 7 : Mr. A.B. Jagtap.

CORAM : RAVINDRA V. GHUGE, J.
DATED : 24th February, 2018

PER COURT :

1. I have considered the extensive submissions of the learned Advocate for the respective sides.
2. The Petitioner has challenged the order dated 20.12.2017, passed by the Tahasildar in Rasta Case No. 4/2017 under Section 5(2) of the Mamlatdars Court's Act, 1906 and is also aggrieved by the order dated 12.02.2018 passed by the Revisional Authority, under Section 23(2) of the said Act.
3. The Petitioner, who is owner of the land Gat No. 161, which is reflected in the sketch map prepared by the Respondents placed on record, consistently submits

that the road from the east side adjacent to the Gavthan travelling to the west side which is at the corner of the land Gat No. 169, is not a regularly used road and that there is a public road in the form of Pakka Rasta/Vahiwat next to the farm owned by Kisan Lahanu. According to him, the road in between the border of his farm and Gat No. 225, running East-West, was never the road in existence.

4. The learned AGP appearing on behalf of Respondent Nos. 1 to 3 submits that the sketch map is prepared by the contesting Respondents on 07.11.2017. He relies upon the spot panchanama, in which the Talathi has observed that the disputed road of about 05 feet width runs from East to West. The said road reaches the border of the land of the Petitioner. It appears that grass has grown in that patch and thereafter, the road travels from Gut Nos. 162 and 163 towards the West. It is also observed that the disputed road is almost about 100 feet long and is about 05 feet wide.

5. The Petitioner submits that his cotton crops are standing in the path adjoining to his land, which

happens to be the part of the disputed road. He submits that his crops are likely to be destroyed, if the impugned orders are implemented. He prays that as he is a poor agriculturist and the crops should be protected.

6. The learned AGP submits, on instructions from the revenue authorities, that the cotton crops which were standing in the portion which is a part of the disputed road have already been harvested by the petitioner and dry plants post harvesting are found at the spot. As such, it cannot be said that crops are standing in the said path. Learned counsel for respondent/original complainant submits that the said cotton crops have already been harvested by the petitioner and there are no crops, so to say, standing in the said portion of the disputed road.

7. Since, I find that the impugned orders are based on the fact situation and on taking into account the spot inspection, I do not find that the concurrent findings of the authorities below could be termed as being perverse or erroneous. Merely, because a different view is possible would not mean that the concurrent findings

could be interfered with.

8. As such, this petition being devoid of merits, is therefore, dismissed.

(RAVINDRA V. GHUGE, J.)

S.P.C.