

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

1

21WRIT PETITION NO. 4520 OF 2013

VISHWANATH NAGU DESHMUKH
VERSUS
PANDURANG GANGARAM CHAUDHARI AND OTHERS

...

Advocate for Petitioner : Mr. S. T. Shelke
AGP for Respondent Nos. 25 to 27: Mr. S. N. Kendre
Advocate for Respondent Nos. 5 to 8, 11 to 15, 19 to 21 :
Mr. S. K. Shinde
Advocate for Respondent Nos. 1 & 3 : Mr. P. R.
Katneshwarkar

...

CORAM : V.K. JADHAV, J.
Dated: February 20, 2018

...

PER COURT :-

1. Leave to add the Collector, Ahmednagar as party respondent. The learned AGP waives notice for the added respondent.
2. Heard finally with consent at the admission stage.
3. It appears that there is a dispute in respect of the boundaries of two villages i.e. Indori and Aurangpur, Taluka: Akole, District : Ahmednagar. In the year, 1995 the respondents / villagers of village Aurangpur had

vsm/-

approached Tahsildar, Akole and accordingly, the Tahsildar, Akole by order dated 27.07.1995 in case No.1 of 1995 restrained the present petitioner from using the way, which is running through the common boundaries of the two villages. Being aggrieved by the same, the present petitioner has approached the Sub-Divisional Officer, Sangamner Division, Sangamner by preferring Revision No. 07 of 1998 and the learned Sub-Divisional Officer, Sangamner by order dated 30.10.1999 quashed and set aside the order passed by the Tahsildar, Akole dated 27.07.1995 in case No. 01 of 1995 and further directed the Tahsildar to get the land measured from the TILR Office and open the road, which passes through the common boundaries of the two villages. Being aggrieved by the same, respondents preferred appeal before the Additional Collector and revision before the Divisional Commissioner. However the appeal and revision came to be dismissed and the order passed by the Sub-Divisional Officer came to be confirmed. Thereafter, the learned Tahsildar, Akole has passed impugned order dated 19.11.2012 by giving reference to

vsm/-

the measurement, which had taken place on 16.06.2005 and taken 6 ft. of the area in breadth from both the villages and directed to open up the road to the extent of 12 ft. (6 ft. from each of the villages).

4. The learned Tahsildar has further directed the parties to remove the encroachment, if any, on the said road, by their own expenses.

5. In terms of the amended provisions of Section 135 of the Maharashtra Land Revenue Code, 1966, if any dispute arises concerning the boundary between the villages, it shall be decided by the Collector after holding a formal inquiry at which the concerned officers and all persons interested shall have an opportunity of appearing and producing evidence. The Collector may, while deciding such dispute or otherwise, after giving an opportunity of being heard to all the concerned persons, officers, correct any error in the area or assessment of survey number or sub-division of survey number due to mistake of survey or arithmetical

vsm/-

miscalculation. Even prior to the aforesaid amendment of the year, 2017, if any dispute arises concerning the boundary of a village, the same shall be required to be decided by the Collector after holding a formal inquiry at which the village officers and all persons interested shall have an opportunity of appearing and producing evidence. Thus, there is no substantial change even after amendment. The Collector may enquire into the dispute and resolve the same by giving an opportunity to all the interested persons.

6. In view of the above, the Collector, Ahmednagar is hereby directed to make an inquiry with regard to the boundary dispute between the two villages i.e. Indori and Aurangpur, Taluka : Akole, District : Ahmednagar and after giving an opportunity of being heard to the petitioner and respondents herein and also to the respective Gram Panchayat and the officers as contemplated under the provisions of Section 135 of the MLR Code, pass the appropriate order with regard to the boundary dispute between the two villages and also

vsm/-

about the way which runs through the common boundary of the two villages i.e. Indori and Aurangapur.

7. Writ petitioner is accordingly, disposed of.

(V.K. JADHAV, J.)

...