

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

920 WRIT PETITION NO.7100 OF 2018

RAMCHANDRA BABURAO PAWAR
VERSUS
MARUTI BAPU PAWAR AND ANOTHER

...

Advocate for Petitioner : Mr. Gatne Atul B.
Advocate for Respondent Nos.1 & 2 : Mr. R.R. Karpe

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**CORAM : P.R. BORA, J.
DATED : 25th JULY, 2019.**

PER COURT:-

. After having heard the learned counsel appearing for the parties and after having perused the order passed by the Tahasildar, Parner and subsequently by Additional Sub Divisional Officer, Parner Division, it is apparently revealed that the facts have not been appropriate appreciated by both the authorities. It appears that the alternative request made by the petitioner for creating a new way was given more weightage while considering the original request of the present petitioner. In the panchnama also, there appears some inconsistency in recording the facts and the contention of the parties.

2. It was the precise contention of the present petitioner that he was using the way to enter into the field

(2)

Gut No. 246 from his field Gut No. 242, through field Gut Nos.244 and 245. It was also alleged by him that since, the said way was obstructed by owners of the Gut Nos.244 and 245, he was constrained to file the application. In the panchnama, it has been mentioned that now also the petitioner is entering into his field Gut No.246 through the foot way through Gut Nos.244 and 245. It appears that the said averment is interpreted to mean as if cart way is presently also available and inspite of that petitioner is praying for new way. The said fact needs to be reconsidered and re-examined. The basic allegation, whether the cart way was in existence, whether it was obstructed did not seem to have been addressed to. There is inconsistency as about the direction from which the petitioner used to enter into the subject field.

3. In the above circumstances, without going into the merits of the contentions raised by the parties in the present petition, it would be appropriate to remit the matter to Tahasildar, Parner to reconsider it afresh on merit and in accordance with law by giving due opportunity of hearing to the parties. Order accordingly.

(P.R. BORA, J.)