

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3625 OF 2017

BHAGWAT S/O FULCHAND BONDAGE
VERSUS
THE STATE OF MAHARASHTRA THROUGH
ITS SECRETARY, REVENUE AND FOREST DEPARTMENT,
MANTRALAYA, MUMBAI AND OTHERS

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Mr. Y.B. Pathan, Advocate for petitioner
Mr. V.B. Jadhav, Advocate h/f. Mr. A.V. Hon, Advocate for
respondents no. 6 and 7
Mr. P.P. More, Advocate for respondents no. 14, 17, 19, 20, 21
Mr. P.N. Kutti, AGP for respondent - State

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CORAM : SUNIL P. DESHMUKH &
S.M. GAVHANE, JJ.
DATE : 15-07-2019

ORAL ORDER :

1. Present writ petition has been moved seeking writ of *mandamus* in respect of representations of petitioner dated 07-06-2016, 02-08-2016, 11-08-2016 and 05-12-2016 for removal of encroachment in lands survey no. 108 and 116 over old road connecting Aurad Shahajani to Kotmal. Petitioner contends that encroachments have been creating hurdles for vehicles and bullock-carts for daily commuting. Beyond preliminary cognizance, no action is being taken in respect of representations of petitioner. Although there is communication dated 27-01-2017 to enquire into

the matter and submit report, till date, respondent no. 6 has not moved.

2. Learned Assistant Government Pleader for respondents no. 1, 2, 3 and 4 states that though *panchanama* under the aegis of circle officer has been prepared, a detailed *panchanama* with measurement has not been done and communication has been issued to deputy superintendent of land records for fixation of boundaries of road from village Shahajani to Kotmal in survey no. 108 and gat no. 116 and that measurement would be necessary. There is communication to effect by tahsildar to collector dated 10-01-2017, that requisite fees would be required to be deposited in order to undertake the work and that amount has not been deposited.

3. Mr. More, learned counsel appearing on behalf of respondents no. 14, 17, 19, 20, 21 submits said respondents are in possession of properties in their own lands. Beyond making allegations, there is no material placed on record before court to indicate there has really been any encroachment. No case is being made out for encroachment. It is further being submitted that petitioner may have certain alternate remedy available and writ petition would not be necessary.

4. Having regard to aforesaid, it would be expedient that petitioner shall show his bonafides by depositing a substantial amount with the Measurer and in case encroachment is found out, same be returned to petitioner lest the same be confiscated and representations of petitioner be disposed of on their own merits.

5. In case petitioner deposits the amount as aforesaid within a period of two (2) months from today, the measurement / fixing of boundaries shall take place within a further period of two (2) months and representations of petitioner would be disposed of within a further period of two (2) months.

6. Writ petition accordingly is disposed of.

[S.M. GAVHANE]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE

arp/