

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

29 CONTEMPT PETITION NO.25 OF 2019
IN WP/8433/2015

NAMDEO MOHAN DHUMAL AND OTHERS
VERSUS
RAOSAHEB JAGANNATH AWARE AND OTHERS

.....
Advocate for Petitioners : Mr. N.C. Garud
Advocate for Respondent No.1 : Mr. D.G. Nagode
AGP for Respondents 2 and 3: Mr. A.B. Chate
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CORAM : V. K. JADHAV, J.
DATED : 2nd JANUARY, 2020

PER COURT:-

1. Heard both sides.
2. I do not find any substance in this contempt petition. By order dated 16.12.2016 this court (Coram: T.V. Nalawade, J.) in para 2 of the order has made the following observations:-

"2. The record like panchnama shows that the existence of only footpath was noticed for having access to respondent. It is necessary to have such footpath and it is having width around four feet. If it is possible, then the Dhura or common bandh can be used as footpath and not the portion under cultivation. If there are no footpath, then the portion at extreme western side of the land of the petitioner having aforesaid width can be used and after going to the end of western side, extreme northern side is to be used. With this clarification, the proceeding is disposed of. The respondents are not expected to use any portion for taking bullock cart, tractor, truck etc."

3. In view of those directions, it is clear that the footpath of four feet in width has been acknowledged and approved by this court. It has been specifically stated in para 2 of the order that the respondents are not expected to use any portion for taking bullock cart, tractor, truck etc.

4. Learned counsel for the petitioners has vehemently submitted that respondent No.1 by joining hands with respondent Nos. 2 and 3 widened the road to the extent of eight feet instead of four feet and the said extended portion of the road is in the land of the petitioners and also caused damage to the standing crops. I do not find any substance in the submissions made on behalf of the petitioners to that effect. On perusal of document annexed at Exhibit B (page 14), it appears that in terms of order passed by this Court (Coram: T.V. Nalawade, J.) dated 16.12.2016 in writ petition No. 8433 of 2015, the concerned Circle Officer of village Bhatkudgaon, Tq. Shevgaon, District Ahmednagar submitted a report to the Tahsildar, Shevgaon that the footpath of four feet in width has been cleared and the possession of the said footpath has been handed over. The said possession of footpath was given on 21.4.2018. Furthermore, there is panchnama drawn on the same date about handing over the possession of the said footpath of four feet in width in presence of the panch witnesses. The said panchnama is placed on record at page 15. There is nothing in the petition to indicate that by taking

undue advantage of the same, respondent No.1 herein in collusion with respondent Nos. 2 and 3 widened the said road to the extent of eight feet and now using the said road by carrying bullock cart, tractor, truck etc. Learned counsel for the petitioners has shown certain photographs of the said disputed footpath. However, on careful perusal of the same, I do not find any damages caused to the standing crops of the petitioners. Even there are standing trees abutting the footpath on the land of the petitioners and thereafter the crop portion begins. Thus, for widening road to the extent of eight feet in width, standing trees would have been destroyed.

5. In view of above, I do not find any substance in this contempt petition. The Contempt petition is hereby dismissed.

(V. K. JADHAV, J.)

rlj/