

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.290 OF 2021
IN
WRIT PETITION NO.7743 OF 2017

Basvanappa s/o Shrimantappa Sarne,
Age : Major, Occu. Agri.,
R/o Jewali, Tq. Lohara,
District Osmanabad

APPLICANT

VERSUS

1. The Hon'ble Minister
for Revenue and Forest Department,
Mantralaya, Mumbai
2. The Additional Commissioner,
Aurangabad Division, Aurangabad
3. The Additional Collector, Osmanabad,
Collector Office, Osmanabad
4. The Sub-Divisional Officer,
Osmanabad, Dist. Osmanabad
5. The Tahsildar, Lohara,
Tahsil Office, Lohara,
District Osmanabad
6. Chandrakant s/o Ramrao Patil,
Age : Major, Occu. Agri.,
R/o Jewali, Tq. Lohara,
District Osmanabad

RESPONDENTS

Mr. P.R. Katneshwarkar, Advocate holding for Mr. A.P. Yenegure,
Advocate for the applicant
Mr. P.G. Borade, A.G.P. for the respondents/State
Mr. Sushant B. Choudhari, Advocate for respondent No.6 (original
writ petitioner)

CORAM : MANGESH S. PATIL, J.

DATE : 08.01.2021

ORDER :

Heard learned Advocate Mr. P.R. Katneshwarkar, holding for Mr. A.P. Yenegure, Advocate for the applicant, who happens to be the original respondent No.6 in Writ Petition.

2. Learned Advocate Mr. Katneshwarkar submits that this Court, by the order dated 17.12.2020, passed in Civil Application No.8137 of 2020, inter alia allowed the request of the applicant (original respondent No.6) to use a path for transporting sugarcane along the path described in that order, which includes the boundary of the land Gat No.241.

3. By way of this application, the applicant (original respondent No.6) points out that the owner of the land Gat No.241 has now erected an obstruction which makes it difficult to use the boundary as has been permitted by this Court by the order dated 17.12.2020. He also points out that the applicant has independently moved the Tahsildar, Lohara on 24.12.2020, making a grievance about such obstruction by the owner of the land Gat No.241. Though the prayer in the present Civil Application seeks to clear the obstruction so as to enable the applicant (original respondent No.6) to use the way as has been permitted by the order dated 17.12.2020, the learned Advocate for the applicant submits that since the owner of the land

Gat No.241 is not party to the petition, he only would request a direction to the Tahsildar to take some decision on his application dated 24.12.2020 whereby the applicant (original respondent No.6) has put a grievance regarding erection of fencing by the owner of the land Gat No.241.

4. Mr. S.B. Choudhari, learned Advocate for respondent No.6 (original petitioner) submits that since the owner of the land Gat No.241 is not party to the present petition, no order affecting his interest can be passed.

5. True it is that the owner of the land Gat No.241 is not a party to the present petition and no order can be legally passed against his interest.

6. However, simultaneously one cannot overlook the fact that by the order dated 17.12.2020, this Court has permitted the present applicant (original respondent No.6) to pass along the boundary of the land Gat No.241. Since he has now put a grievance before the Tahsildar about erection of obstruction by the owner of the land Gat No.241, the request being made by the applicant to issue a direction to the Tahsildar to take some decision on his grievance is rather innocuous, more so would be necessary to provide efficacy to the order passed by this Court on 17.12.2020.

7. The Tahsildar, Lohara shall take decision on the application of the applicant (original respondent No.6) dated 24.12.2020 as early as possible.

8. Since by the order dated 17.12.2020, the applicant (original respondent No.6) was allowed to use the way upto 31.12.2020, it appears that because of the alleged obstruction by the owner of the land Gat No.241 he has not been able to bear the fruits of the order. Therefore, on oral request on his behalf by learned Advocate Mr. Katneshwarkar, the time is extended for two weeks from today.

9. The Civil Application is disposed of.

[MANGESH S. PATIL]
JUDGE

npj/CA290-2021