

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

WRIT PETITION NO.3522 OF 2019

Balasaheb s/o Murlidhar Bhalke

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.S.R.Andhale, advocate for the Petitioner.

Mr.S.P.Deshmukh, AGP for Respondents No.1 to 3.

Mr.R.R.Karpe, advocate for Respondents No.4 & 5.

CORAM : V.K.JADHAV, J.

DATE : 15th February, 2021.

PC :

1 Heard both sides.

2 The petitioner herein is the original applicant in *rasta* Case No. 34 of 2017. The Tahsildar, Rahuri, has partly allowed the application and given certain directions for removal of impediment on the way admeasuring 8x10 feet in width, which is situated towards the northern side of G.No.410/1, 411 and towards eastern side of G.No.421/1 and further restrained the respondents from causing obstruction to the petitioner in using the said way.

3 Being aggrieved by the same, respondents no.4 to 6 herein, have preferred Revision No.21/2018 before the Collector. By the impugned order dated 19.12.2018, the learned Deputy Collector (Rehabilitation), Ahmednagar, has allowed the said Revision, quashed and set aside the order passed by the Tahsildar, Rahuri, with the observation that there is a water canal in between the lands of the revision petitioners (respondents no.4 to 6 herein) and the petitioner herein. It is also observed that there is irrigation canal 20 feet in width and 7/8 feet depth.

4 The learned Counsel for the petitioner submits that the petitioner neither accepted existence of said water canal nor it is shown in the *panchanama* drawn by the Tahsildar during his spot visit. The learned Counsel for the petitioner submits that in view of this controversy, the matter may be remanded for fresh inquiry and for also drawing *panchanama* afresh.

5 Mr.Karpe, learned Counsel for Respondents, though opposed the petition, however, he has fairly accepted that in the *panchanama* drawn by the Tahsildar during his spot visit, the irrigation canal is not shown.

6 In view of the above, this Court is left with no choice but to remand the matter to the learned Tahsildar, Rahuri, for fresh inquiry so also for spot inspection.

7 Hence, I proceed to pass the following order:

(i) Writ Petition is partly allowed.

(ii) The impugned order dated 19.12.2018, passed by the Deputy Collector (Rehabilitation), Ahmednagar in Revision No.21/2018; so also the order passed by the Tahsildar, Rahuri, dated 21.07.2018 in RTS Case No.34/2017, are hereby quashed and set aside.

(ii) The matter is remanded to the Tahsildar, Rahuri, with the following directions:

(a) The learned Tahsildar shall re-inquire into the matter and prepare the *panchanama* after inspecting the spot afresh in the presence of both the parties.

(b) The learned Tahsildar, Rahuri, shall dispose of the proceedings as expeditiously as possible, preferably within a

period of three months from the date of appearance of the parties.

(c) The petitioner and Respondents No.4 to 8 shall appear before the learned Tahsildar, Rahuri, on 1st March, 2021.

8 Writ Petition is partly allowed and disposed of in above terms.

(V.K.JADHAV)
JUDGE

adb