

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5634 OF 2021**

Shivaji Dagadu Tengale and Anr. ... Petitioners
Versus
Piraji Namdev Tengale and Ors. ... Respondents

Mr. Sanjeev A. Sawant with Mr. Abhishek P. Deshmukh, for Petitioners.
Mr. V.B.Tapkir, for Respondent Nos.1 and 2.
Mrs. S.D.Vyas, 'B' Panel Counsel, for State.
Mr. Sanjay Nivrutti Patil, Tahasildar, Daund, present.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : 23rd SEPTEMBER, 2021

P.C. :

1. The 7/12 extracts pertaining to the subject land stands in the joint names of the Petitioners and Respondents. There is a long standing dispute between the Petitioners and Respondents. The Respondents have moved the Civil Court seeking appropriate reliefs in respect of the subject lands, which is not granted.
2. The Respondents filed an Application dated 23rd August, 2021 before the Tahasildar, Daund seeking police protection to remove the sugarcane crops from the fields, which stands in the joint names of the Petitioners as well as Respondents. The Tahasildar, Daund, without considering the merits or the background pertaining to the disputes, passed an order directing the police to enter the land, which stands in the joint names of the Petitioners as well as the Respondents and allowed Respondent

No.2 to remove the sugarcane crops.

3. In our view, the Tahasildar, Daund, before passing such an order, ought to have heard the Petitioners who as per the 7/12 extracts are the joint owners of the subject land. The conduct of Tahasildar, Daund, is therefore, strongly deprecated.

4. However, the learned Advocate for Respondent No.2 now states that the order dated 8th September, 2021 passed by the Tahasildar, may be set aside and he also has instructions to withdraw the Application dated 23rd August, 2021 filed by Respondent No.2 before the Tahasildar, Daund.

5. In view thereof, the following order is passed :

(i) The order dated 8th September, 2021 passed by the Tahasildar, Daund, is set aside.

(ii) The Application dated 23rd August, 2021 filed by the Respondent No.2 before the Tahasildar, Daund, is allowed to be withdrawn.

(iii) The parties are at liberty to move the Civil Court seeking appropriate reliefs. In the event of any Application being filed before the Civil Court in the pending Suit / proceedings, the same shall be decided by the Civil Court within a period of two weeks from today, strictly on merits and without being influenced by what is stated in the present proceedings or in this order or in the application filed before the Tahasildar, Daund or in the order dated 8th September, 2021.

(iv) The parties shall not remove the sugarcane crop until the Civil

Court decides the disputes between the Petitioners and Respondents.

- (v) All contentions of the parties are kept open.
- (vi) The Writ Petition is accordingly disposed of.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)