

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.457 OF 2018

Tajuuddin Ismailbhai Musani

Vs.

The Additional Collector, Yavatmal, Tah. & Distt. Yavatmal and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. V. Bhide, Advocate for petitioner.

Mr. A. A. Madiwale, AGP for respondent Nos.1 and 2.

CORAM : AVINASH G. GHAROTE, J.

DATE : 28/10/2021

Heard Mr. Bhide, learned counsel for the petitioner, who challenges the order passed by the learned Mamlatdar as well as the Revisional Authority directing the petitioner, to remove the obstruction to the natural flow of water into the water course which is to the West side of the field of the petitioner bearing Survey No.665.

2. It is the contention of respondent No.3 before the learned Mamlatdar that there is a natural declination from Gat No. 664, owned by the respondent No.3 towards the West of which Gat No.665 belonging to the petitioner, is situated, beyond which there is a water course and the water therefore, naturally flows into the water course to the West side. As the petitioner had erected a Bandh on the Western boundary of his field Gat No.665, the natural drainage of water was obstructed because of which, the field of the respondent No.3 was

inundated in the rainy season. Therefore, an application came to be filed for removal of the obstruction, which has been allowed by the learned Mamlatdar, the revision against which has been dismissed, leading to filing of the present petition.

3. Mr. Bhide learned counsel for the petitioner submits that the Complaint by respondent No.3, was not in proper form, and therefore, could not have been entertained by the learned Mamlatdar. He further submits that the impugned orders are incorrect, as the drainage of water can be from the side of the Dhura/boundary towards the Northern side of both the fields.

4. Mr. Madiwale, learned AGP supports the impugned Judgment and order.

5. A perusal of the order dated 23.03.2016, passed by the learned Mamlatdar would clearly indicate that because of a natural slope, towards the Western side, the natural flow of water was from East to West which poured out into the water way to the Western side of the Gat No.665 owned by the petitioner. The construction of a Bandh by the petitioner, over this out-flow, has caused the rain water to be accumulated in the field of the respondent No.3 bearing Gat No.664, due to absence of any drainage, in view of which, the petitioner has been directed to remove the obstruction. The learned Revisional Authority, has in its order dated 16.01.2017

found that any apprehension by the petitioner, regarding inability to take crop in his land, can be dealt with if the drainage of water, is permitted adjacent to the Northern boundary of both the Gat numbers as indicated to the Map at page 20. Such a course, would clearly not come in the way of the petitioner, in making useful cultivation of his field. The direction, therefore, is to the benefit of both the respondent No.3, as well as, the petitioner in usefully cultivating their respective fields, considering which, I do not find any infirmity in the orders passed by the Authorities below.

6. The petition is, therefore, without any merit and it is accordingly dismissed. No costs.

JUDGE