

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

WRIT PETITION NO.3671 OF 2022

**ASHOK TATYABA OHOL AND OTHERS
VERSUS
BALIRAM GOVIND GAIKWAD AND OTHERS**

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Advocate for Petitioners : Mr. Rahul R. Karpe
AGP for Respondents – State : Mr. S. B. Pulkundwar
Advocate for Respondent No.1 : Mr. S. S. Bora

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 17TH MARCH, 2022

PER COURT :

1. This petition challenges the order passed by the learned Joint Civil Judge Junior Division, Shrirampur, below Exhibit-30 in Regular Darkhast No.25/2020, thereby appointing Taluka Inspector of Land Records, Shrirampur, to help the police machinery by fixing the boundaries. Regular Civil Suit No.175 of 2005 filed by the respondent No.1 is decreed and the petitioners are permanently restrained from interfering in the peaceful possession and cultivation of the plaintiff/respondent No.1 in respect of suit property i.e. land Gat No.1 admeasuring 1.27 H.R., in addition to 17R virgin land situated at village Umbergaon, Tal. Shrirampur, District Ahmednagar. Respondents filed execution proceedings. The application Exhibit-11 came to filed by the respondent/decreed holder contending that the petitioners/judgment

debtors are causing obstruction to the decree holder's peaceful possession and cultivation, therefore, the decree holder claimed police aid for possession. The said application was allowed by the executing Court by order dated 06-02-2021. Thereafter application Exhibit-30 is preferred by respondent No.1 contending that by allowing his application Exhibit-11 police aid is granted to him. When he went to serve the order of police aid to the police authorities, he was asked to get a Government Officer appointed, so as to show the boundaries of the suit property, then only police aid can be given. It is, therefore, prayed that at the time of police aid Taluka Inspector of Land Records be appointed to fix the boundaries of the suit property. The said application was resisted by the petitioners/judgment debtors. Executing Court allowed the application and appointed the Taluka Inspector of Land Records to fix the boundaries. The petitioner is aggrieved by this order.

2. I have heard the rival submissions of the learned advocates for the respective parties. Perused the documents filed along with the petition.

3. The learned advocate for petitioners, by placing reliance on the consolidation proceedings, submitted that on the basis of consolidation proceedings the petitioners are in possession of the suit

property. According to him, since the consolidation proceedings are pending the executing Court ought not to have allowed the application filed by the respondent/decreed holder by giving police aid as well as appointing the Taluka Inspector of Land Records.

4. Admittedly, the decree is passed in favour of the respondent No.1/decreed holder and permanent injunction is granted against the petitioners/judgment debtors from disturbing peaceful possession of the suit property of respondent No.1. The petitioners are trying to encroach on the suit property and therefore, police aid was sought which is granted by the executing Court. For fixing the boundaries of the suit property Taluka Inspector of Land Records is appointed by the executing Court at the instance of respondent No.1/decreed holder. In these facts, it is not possible to accept the contention of the petitioners that under the garb of appointment of Taluka Inspector of Land Records the petitioners' possession will be disturbed. The Taluka Inspector of Land Records is going to fix the boundaries of the suit property and not of the properties belonging to the petitioners. No prejudice is likely to be caused to the petitioners by appointment of Taluka Inspector of Land Records and by fixing the boundaries. The executing Court was justified in appointing the Taluka Inspector of Land Records for fixing boundaries. There is no illegality or perversity in the challenge raised by the petitioners.

5. The consolidation proceedings may take its own course, however, since the present order is passed in execution proceedings, no fault can be found with the same.

6. Writ petition being devoid of merits is dismissed.

7. At this stage the learned advocate for petitioners submits that this order may be stayed as the petitioners intend to challenge it. For the reasons recorded in this order, I am not inclined to accept the said prayer. The prayer is rejected.

(NITIN B. SURYAWANSHI, J.)