

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

944 WRIT PETITION NO.13379 OF 2021

**RAJESH ASHOK MORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioner : Mr. Arora Shyam C.
AGP for Respondent/s-State : Mr. K. N. Lokhande
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**CORAM : A. S. GADKARI, AND
S. G. MEHARE, JJ.**

DATE : 14.01.2022

P. C. :-

1. By the present petition, the petitioner has approached this Court under Article 226 of the Constitution of India with the principle following relief :

"B) The Hon'ble High Court may be pleased to Issue order or direction in the nature of writ thereby directing the Respondent No.3 herein to carry out the measurement of the Petitioners land Gat No.15 to the extent of 20 Are land situated at Shajapur, Tq. & Dist. Aurangabad by fixing the boundary marks in view of the application dated 01.03.2021."

Record clearly indicates that, on 14.06.2021 the Surveyor has measured the land of the petitioner. Even the

pleading of the petitioner in paragraph No.7 is that, on 14.06.2021 his land has been measured but finality to the measurement is not given.

In view thereof, the first part of the prayer that, 'land is to be measured' does not survive.

2. As far as fixing up boundaries and giving finality to the measurement is concerned, record indicates that, the adjoining land owner i.e. Smt. Nilima Chandrakant Ghadge has raised an objection and has claimed her easementary occupation over part of the land which is already measured. The Surveyor therefore in his pachnama dated 14.06.2021 has categorically noted that, the petitioner and adjoining land holder are claiming easementary right on a particular portion of land. Respondent No.3, therefore, has issued a notice dated 13.08.2021 (page 44 to petition) calling upon the petitioner and the said Smt. Nilima Chandrakant Ghadge for an adjudication over the boundary of the disputed portion of land. As per the submission of learned AGP, the said notice is issued under Section 135 of the Maharashtra Land Revenue Code, 1966. Section 135 of M.L.R.C. prescribes procedure for adjudication of dispute arising out of and concerning the

boundary of a village or a field or a holding which has not been surveyed and other related aspects. The petitioner without participating in the said adjudication / inquiry has directly rushed to this Court by invoking its jurisdiction under Article 226 of Constitution of India with the aforesaid prayer. There are undoubtedly various disputed facts involved in the present case.

3. In view thereof, we find that there are no merits in the petition and is accordingly summarily dismissed.

(S. G. MEHARE, J.)

(A. S. GADKARI, J.)

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vmk/-