

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

WRIT PETITION NO.12430 OF 2022

FAISAL KHALED MAKRANI
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY OF REVENUE
AND FOREST DEPARTMENT AND OTHERS

...
Advocate for Petitioner : Mr. Hrishikesh V. Tungar
AGP for Respondents: Mr. A.S. Shinde

...
**CORAM : MANGESH S. PATIL AND
Y. G. KHOBRAGADE, JJ.**

DATE : 08.12.2022

PER COURT :

The petitioner is seeking following reliefs :

“B. By issuing the writ of certiorari or any other appropriate writ or order or direction in the like nature, the proceeding initiated towards the measurement of Patoda to Chumbali Panand Road by the Tahsildar Patoda and the Deputy Superintendent of Lands Record, Patoda may kindly be quashed and set aside may kindly be declared as illegal.”

2. The learned advocate for the petitioner submits that though he is owner of the portion of the lands adjoining the Panand road, the Tahsildar has taken initiative at the instance of some of villagers and the Survey Department is about to carry out measurement even without issuing any notice to him. He submits that notices have been issued to several other persons owning the lands adjoining to that way but the petitioner has not been noticed. If some measurement is to take place it would be a fair if all the adjoining land owners are served with the notice.

3. The learned advocate Mr. Tungar would further submit that if at all there is some encroachment on the customary way, a proceeding as contemplated under the Mamlatdars' Courts Act, 1906 ought to have been

initiated. Without resorting to any such statutory remedy the Tahsildar at the instance of some villagers has taken the initiative and the measurement is to be carried out and it is likely to cause prejudice to the petitioner.

4. We have considered the submissions and perused the papers. Even according to the petitioner Panand road does exist at the site as can be seen even in the village map. The proposed action by the Tahsildar and the DILR is to carry out measurement of that way and to remove the obstructions, if any. When existence of the road on the village map stands admitted by the petitioner, there is nothing before us to demonstrate that the proposed measurement even if it is carried out in petitioner's absence would cause any prejudice to him.

5. There is not even an averment in the petition about the petitioner having ever approached the Tahsildar or the TILR complaining about want of notice. Rather the record reveal that the petitioner's father has been served with the notice of the proposed measurement.

6. In our considered view when the proposed action of removal of encroachment on Panand road, the existence of which is clearly admitted by the petitioner, the proposed action cannot be questioned merely because the petitioner is harboring some impression about prejudice.

7. The writ petition is dismissed.

(Y. G. KHOBRAGADE, J.)

(MANGESH S. PATIL, J.)