

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

945 WRIT PETITION NO.147 OF 2018

JAGNNATH SHRIPATI BHORE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioner : Mr. K.R. Doke
AGP for Respondents 1 & 2 : Mr. S.P. Tiwari
Advocate for Respondent 4 & 5 : Mr. Kuldeep S. Patil h/f. Mr. S.S.
Choudhary
...

CORAM : ARUN R. PEDNEKER, J.
DATED : 01/03/2023

PER COURT :

1. Heard the learned counsel for the parties.
2. By way of present writ petition, the petitioner challenges the orders dated 30.5.2017 passed by the Additional District Collector, Osmanabad, confirming the order dated 10.10.2016 passed by the Tahsildar under section 5 of the Mamlatdars Courts Act.
3. From the panchanama, it appears that both the parties had obstructed the water flow. In panchanama, it is mentioned that water flow was obstructed by Kartik Punjab Shingate and others and water flow was diverted to the land of the petitioner. The petitioner has also obstructed/protected the water flow by virtue of which the natural flow of the water is obstructed and the lands of the respondents are inundated by the excess water. There is no reference of above contents of panchanama in the impugned orders passed by the authorities below and therefore, there is no equitable balance in the final order.
4. In view of the same, the matter is relegated back to the Mamlatdar for deciding the dispute afresh. The Mamlatdar is to take into consideration

the panchanama dated 24.5.2016 and other evidence that may be available while passing the final order. The Mamlatdar shall pass the order within eight weeks from the date of intimation of this order.

5. Writ petition is disposed of accordingly.

[ARUN R. PEDNEKER J.]

ssc/