

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

8 WRIT PETITION NO.10093 OF 2023

BASVANAPPA SHRIMANTAPPA SARNE AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND  
ANOTHER

Mr.A.P.Yenegure, Advocate for the Petitioners.  
Mr.V.M.Kagne, AGP for Respondent Nos. 1 and 2.

( CORAM : RAVINDRA V. GHUGE AND  
Y. G. KHOBRAGADE, JJ.)

DATE : OCTOBER 30, 2023

PER COURT :

1. The dispute of the boundary lines and the old village road reached the learned Single Judge's Bench of this Court in Writ Petition No.7743/2017. Petitioner No.1 herein was Respondent No.6 in the said proceeding. By judgment dated 25.03.2021, the learned Single Judge dismissed the Writ Petition and concluded that the orders passed by the Revenue Authorities for clearing the obstruction, are legal and justifiable.

2. While considering this Petition, we had recorded in our

order dated 04.09.2023 as under :-

"1. We have heard the learned AGP and the learned Advocate for the Petitioners. We have perused the order of the Tahsildar and the detailed judgment delivered by the learned Single Judge dated 25.03.2021 in Writ Petition No.7743 of 2017. The order of the Tahsildar, directing the authorities to ensure that the road between the boundaries of the farms taking the Petitioner to his land to Gut No.242, is now crystalised.

2. According to the Petitioner, the present Tahsildar is apparently attempting to protect the encroacher, who was the Intervention Applicant who had filed Civil Application No. 1087 of 2021. The Petitioner contends that the Tahsildar keeps on trying to convince him that he should not take the straight path which is defined by the Tahsildar, i.e. the Sur-Bandh between the agricultural fields and that he should take a turn into Gut No.248 thereby disturbing the farm of the landlord in Gut No.248 and then reach his land in Gut No.242.

3. Prima-facie, we find that if the contentions of the Petitioner are substantiated, the indulgence of the Tahsildar would be an attempt to overbear the authority of the learned Single Judge.

4. We were inclined to pass an order directing the District Collector to initiate action against the said Tahsildar by following the due procedure and the service law applicable. However, the learned AGP submits that the Tahsildar would tender a compliance report

*within the time as this Court may permit.*

5. *In view of the above, list this Petition on next Monday i.e. 11.09.2023, for enabling the Tahsildar to tender a compliance report."*

3. After hearing the learned Advocate for the Petitioners and the learned AGP, it is apparent that there are several disputed issues, including the issue, whether the Present Petitioners have indulged in any encroachment or whether the Petitioner in WP No.7743/2017, has succeeded in influencing the Revenue Authorities to deviate from the orders of the Revenue Authorities and whether a new pathway has been created under the pretext of implementing the earlier orders of the Revenue Authority.

4. **This Petition is, therefore, disposed off,** but with liberty that the Petitioners can make a representation to the Deputy Collector, Lohara and set forth all the grounds and contentions that they desire to incorporate. The Deputy Collector / S.D.O. shall follow the due procedure laid down in Law and by granting reasonable opportunity of hearing to all the stake holders, would consider the contentious issues raised by the Petitioners. In the event he does not have the jurisdiction

to consider their representation, he would extend appropriate guidance to the Petitioners to initiate any particular proceedings before the Revenue Authorities or the Civil Court.

( Y. G. KHOBRADE, J. )

( RAVINDRA V. GHUGE, J.)