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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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ANANDRAO
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Date: 2023.02.18
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WRIT PETITION NO.1634 OF 2023

Nishant S.Upadhyaya & Anr.

...Petitioners

V/s.

State of Maharashtra & Ors.

...Respondents

Mr.Pravin Samdani, Senior Advocate with Mr.Sandesh Patil and Mr.Deepak V. Shukla for the Petitioners.

Mr.P.P. Kakade, Government Pleader with Ms.M.S. Bhende, AGP the State – Respondent Nos.1 to 7.

Dr.Abhinav Chandrachud i/b M/s.Legal Vision for the Respondent Nos.8 and 9.

Mrs.Nisha Y. Karbelkar, Assistant Superintendent, Land Records, Palghar present in Court.

CORAM : R.D. DHANUKA &

M.M. SATHAYE, JJ.

DATE : 16TH FEBRUARY, 2023.

P.C. :-

1. Rule. Learned Government Pleader waives service for the Respondent Nos.1 to 7. Dr.Chandrachud, waives service for the Respondent Nos.8 and 9. By consent of parties, Rule is made returnable forthwith.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners seek a writ of mandamus against the

Respondent Nos.2 to 7 to forthwith carry out measurement / demarcation in respect of the lands belonging to the Petitioners and the Respondent Nos.8 and 9 described in prayer clause (a) of the Petition.

3. The Respondent Nos.8 and 9 had applied for measurement / demarcation of their plots, which is adjoining to the plots of the Petitioners and seven others land mentioned in the statement at Exhibit "A" to the Petition. The Respondent No.3 has already issued a notice to remain present to the Petitioners as well as to the Respondent Nos.8 and 9.

4. The Government Pleader on instructions states that while considering the application for measurement / demarcation made by the Respondent Nos.8 and 9, the Respondent No.2 would also issue notices upon the other seven parties described at Exhibit "A" to the Petition with a request to remain present at the time of measurement / demarcation. According to the learned Government Pleader, the procedure is being followed in compliance with the provisions of the Maharashtra Land Revenue Code and the Rules, 1966.

5. In view of the statement made by the learned Government Pleader, Mr.Samdani, learned senior advocate for the Petitioners states that his clients would remain present on the date as may be assigned by this Court at the time of joint measurement and

demarcation and would also contribute towards the payment of fees and expenses, if any, payable in advance before the date fixed for joint measurement and demarcation.

6. Dr.Chandrachud, learned counsel for the Respondent Nos.8 and 9 submits that in view of the stand already taken by the Respondent Nos.1 to 6, his clients do not propose to raise any objection in respect of the joint measurement as well as demarcation. Statement is accepted.

7. The Respondent No.2 is directed to issue notices to the Petitioners, the Respondent Nos.8 and 9 and other parties whose names are described in the statement annexed at Exhibit "A" to the Petition excluding the Petitioners calling upon them to remain present on the plots which would be identified in the notice that would be issued by the Respondent No.2. The notice shall be for clear seven days from the date of receipt of such notice. The parties are directed to remain present on the date that would be assigned by the Respondent No.2, without fail. It is made clear that if any of the parties remain absent, the Respondent No.2 to proceed with the process of measurement and demarcation in the absence of such parties. If any amount is requisitioned by the Respondent No.2 regarding the fees and expenses, the same shall be indicated in the notice that would be issued by the Respondent No.2. Upon receipt of

such notice, the amount requisitioned shall be deposited within three days with the Respondent No.2.

8. Upon the joint measurement and demarcation, the Respondent No.2 to issue the plan showing the area of demarcation to all the parties upon payment of requisite charges, if any, within 48 hours from the date of demarcation.

9. It is made clear that all the parties to co-operate with the Respondent No.2 in carrying out the joint measurement and demarcation.

10. The Writ Petition is allowed in aforesaid terms. Rule is made absolute accordingly. There shall be no order as to costs. Parties to act on the authenticated copy of this order.

(M.M. SATHAYE , J.)

(R.D. DHANUKA, J.)