

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL WRIT PETITION NO. 7825 OF 2021

Rajaram Nivrutti Gundgal

..Petitioner.

Versus

Bhima Laxman Gundgal (since deceased)
through legal heirs.

..Respondents

Mr. Sachin D. Kadam for Petitioner.

Mr. Tushar Sonawane a/w. Pooja Satpute for Respondent Nos.1
and 2.

CORAM : SARANG V. KOTWAL, J.

DATE : 27 MARCH 2023

PC :

1. The Petitioner has challenged the order dated 05/08/2021 passed by the Deputy Collector, Land Acquisition, Yeola in R.T.S. Revision No.13 of 2021, thereby setting aside the order dated 31/10/2020 passed in Tahsildar Case No.19 of 2020. The contention of the Petitioner is that, he has no access road as of today to approach his land at Gat No.12/1 at village Satana, Taluka Nandgaon, District Nashik. His contention is that, there is a East-West road i.e. Vanjarwadi road. From that road, a small way goes towards Northern side where all these lands are situated. He

submitted that the Respondents have obstructed that small way by putting obstructions near their land at Gat No.12/2. At the first instance, the Petitioner had approached the Mamlatdar's Court and the order was passed in his favour on 31/12/2020 by the Upper Tahsildar, Nandgaon, in Vahivat Case No.19 of 2020. The Respondents were directed to remove the obstruction. This order was set aside by the Revisional Authority; which is under challenge before this Court.

2. Learned counsel for the Petitioner submitted that the Revisional Authority committed error in observing that the Petitioner has not proved that there was a common way in use since long. The panchanama did not show any such way near Gat No.12/2 and, therefore, on this basis the order passed by the Additional Tahsildar was set aside. Learned counsel for the Petitioner submitted that the panchanama which is relied on by the Revisional Authority does not mention Gat No.12/2 at all. Those observations are not based on any material before him. He submitted that the panchanama was not properly carried out and it was necessary to show the position of Gat No.12/2 belonging to

the Respondents.

3. Learned counsel for the Respondents opposed these submissions. He justified the order passed by the Revisional Authority.

4. The panchanama and the map are annexed to this petition at Page Nos.21-A and 23. In both these documents, the situation of Gat No.12/2 is not shown at all. Therefore, it is necessary to remand the matter back to the Revisional Authority to find out the exact location of Gat No.12/2 and whether there was any way in existence and if it was obstructed by the Respondents. Therefore, I am inclined to remand the matter back to the Revisional Authority.

5. Hence, the following order:

ORDER

- i) The Petition is allowed.
- ii) The order dated 05/08/2021 passed by the Deputy Collector, Yeola, is set aside.
- iii) The R.T.S. Revision No.13 of 2021 is remanded back to its file for fresh consideration.

- iv) The Revisional Authority shall call for a fresh map and fresh panchanama of the Gat Nos.12/1 to 12/6 and the access road to these respective lands.
- v) The Revision Application shall be decided within a period of six weeks from today.
- vi) Both the parties are at liberty to pray for interim relief. If any such application for interim relief is made, it shall be decided within a period of two weeks from today.
- vii) With these observations, the Petition is disposed of.
- viii) The Revisional Authority shall pass the order without being influenced by this order.

(SARANG V. KOTWAL, J.)