

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3962 OF 2022

Shri Shailesh S/o Sukhdas @ Sukhdeo
 Khobragade
 Aged about: 32 yrs,
 Occupation: Agriculturist,
 R/o: Pimpalgaon Post- Morgaon,
 Tah- Mouda, Dist- Nagpur. **PETITIONER**

...V E R S U S...

1. State of Maharashtra
 Through District Collector Nagpur
 Office at Civil Lines, Nagpur.
2. The Tahsildar, Mouda
 Office at Tahsil Office Mouda
 Tah- Mouda, Dist- Nagpur.
3. Arvind Govinda Meshram
 Aged about Major
 Occupation: Private
 R/o: Khat Post- Khat,
 Tah- Mouda, Dist- Nagpur.
4. Deputy Superintendent of Land
 Records Tah- Mouda,
 Dist- Nagpur. **RESPONDENTS**

 Ms. Mitisha S. Kotecha, Advocate holding for Mr. M. Anil
 Kumar, Advocate for Petitioner.
 Mrs. Kalyani R. Deshpande, AGP for Respondents 1, 2 and
 4/State.
 Mr. A. R. Ingole, Advocate for Respondent 3.

CORAM: **ROHIT B. DEO AND M. W. CHANDWANI, JJ.**
DATE: **13th JULY, 2023.**

ORAL JUDGMENT: (PER ROHIT B. DEO, J.)

Heard. Rule. Rule made returnable forthwith by consent of the learned counsels for the parties.

2. The petitioner is aggrieved by communication dated 04.07.2022 addressed by the Tahsildar, Mouda to the Superintendent Land Record.

3. The communication impugned appears to be innocuous inasmuch as the Tahsildar Mouda ostensibly is requesting or directing the Superintendent of Land Record to measure the subject land and fix the boundaries.

4. However, deeper examination reveals, that the Tahsildar probably is labouring under an impression that he is vested with the power of the Civil Court. The subject of the communication impugned refers to the alleged wrongful possession of the petitioner and the need to recover the wrongful possession from the petitioner and restore the same to respondent

3. Copy of the communication is addressed to the Superintendent of Police (Rural), Nagpur with request that police aid be provided

to enable the restoration of possession.

5. The communication impugned is clearly an abuse of power.

6. We, therefore, quash the communication impugned. We however, clarify, that if any measurement is required to be done, the same shall be done in accordance with law, in the presence of the petitioner and the other stakeholders, without disturbing the possession of the petitioner.

7. We do not intend to make any observation on the merit of the rival claim. If at all there is any dispute, the parties are free to approach the appropriate Civil Court.

8. The petition is disposed of in the aforestated terms.

(M. W. CHANDWANI, J.)

(ROHIT B. DEO, J.)