



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No.5901 of 2022

Vishuddha Vidyalaya Sansthan, F-30, Yavatmal Thr. Chairman, Vinayak Shrikrishna
Datey And Others

Vs

The State Of Maharashtra, Thr. Its Secretary, Department Of Revenue, Mumbai And
Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri U.S. Dastane, Advocate for the Petitioner/s
Ms H.N. Jaipurkar, AGP for the Respondent Nos.1 to 7/State
Shri P.P. Deshmukh, Advocate for the respondent Nos.8 and 9
Shri N.R. Saboo, Advocate for the respondent No.10

CORAM : ANIL S. KILOR, J.
DATED : 25.09.2023

1. Heard.
2. In this petition, the order dated 20.06.2022 passed by the Hon'ble Minister (Revenue), setting aside the order of Deputy Superintendent of Land Record dated 27.07.2020 and upholding the measurement dated 21.12.2019, is under challenge.
3. The petitioner No.1 is an Education Society, whereas, the petitioner Nos.3 and 4 are the schools run by the petitioner Nos.1 and 2. It is the case of the petitioners that the land admeasuring 1.21 Hectares i.e. three acres, bearing Survey No.17/1, Sheet No.29C/2 at Mouza : Umarsara, Tahsil and District : Yavatmal is shown as reserved for public or semi public purposes in the Development Plan of Yavatmal, Sanctioned vide

Government Notification dated 08.07.1998 and the petitioners have become absolute owners of the said land.

4. It is further case of the petitioners that the land bearing Khasara No.17/2 is reserved for residential purpose under the sanctioned development plan and out of the dispute arose in respect of the boundaries of the said lands, the land owners approached to the Revenue Authority and got the lands measured on 21.12.2019.

5. It is alleged that while preparing measurement map some of the area of the adjoining land is included and accordingly, on 17.06.2020 the land was remeasured for identifying the land owned by the petitioners. The respondent Nos.10 to 13 therefore, approached the State Government by filing an appeal under Section 247 of the Maharashtra Land Revenue Code, 1966 and in the said proceedings, the impugned order came to be passed by the Hon'ble Minister, cancelling the subsequent measurement dated 17.06.2020 and upholding the measurement dated 21.12.2019.

6. During pendency of the present writ petition, to find out whether the petitioners are in actual possession of three acres of land, the direction was issued to the respondent No.6 to carry out the measurement of the land in possession of the petitioners and accordingly, the land was measured and as per the report of the respondent No.6, the petitioners are in possession of three acres of land.

7. However, the petitioners are disputing the boundaries shown in the map and according to the petitioners, the respondent No.6 has added some area from adjoining lands by remaining some area from the land owned by the petitioners.

8. From record, it is evident that the original owners have already approached to the Civil Court by filing the suit for declaration raising a dispute as regards the measurement dated 17.06.2020.

9. In the circumstances, I am of the opinion that when the Civil Suit is pending and in the said Civil Suit same issue is pending for determination and adjudication of boundaries of the lands in dispute, the Hon'ble Minister ought not to have entered into said issue and recorded the findings about cancellation of the subsequent measurement report.

10. As there are two maps dated 21.12.2019 and 17.06.2020 and there is a dispute about boundaries, it would be a matter of evidence to establish the correctness of the maps and the measurements.

11. As far as the measurement directed by this Court vide order dated 11.04.2023, was directed to be carried out by the respondent No.6 with the purpose to confirm that the petitioners are in possession of three acres of land and not to determine the boundaries, which is the subject matter of the suit.

12. In the circumstances, I am of the opinion that without making any observation on merits, particularly, about the correctness of any of the maps, namely the map submitted before

this Court, in view of the direction issued by this Court to the respondent No.6 or the correctness of the maps dated 21.12.2019 and 17.06.2020, it would be appropriate to dispose of the writ petition by setting aside the order of the Hon'ble Minister and keeping all points open to be decided by the Civil Court. Accordingly, I pass the following order:

- (i) The writ petition is **allowed**.
- (ii) The impugned order dated 20.06.2022 passed by Hon'ble Minister, is hereby quashed and set aside.
- (iii) All points in respect of correctness of the maps, referred herein above, are kept open.

13. The learned counsel for the petitioners undertakes to deposit fees towards measurement of the land to the extent of three acres, within two weeks from today.

Accordingly, the writ petition is **disposed** of in the above terms. No order as to costs.

[ANIL S. KILOR, J.]