

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9458 OF 2016
WITH
CIVIL APPLICATION NO. 13633 OF 2016
IN WP/9458/2016

Pandit Bhiku Patil

VERSUS

Samadhan Trimbak Patil

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Advocate for the Petitioner : Mr. Patil Vijay Y.

Advocate for Respondent : Mr. Patil Vinod Prakash

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CORAM : S.G. MEHARE, J.

DATED : MARCH 01, 2024

PER COURT:-

1. Heard the respective counsels.
2. It was a case of way. The Collector as well as the Sub-Divisional Officer in exercise of their powers under the Mamlatdar's Courts Act held that the footway was in existence to the east of the field Gat No.151. The respondent had claimed that the footway was in his use.
3. There is no dispute that there is a cart way towards the eastern side of the suit field. The petitioner submits that the footway was not in existence. The respondent is using his land as footway.
4. The burden was on the petitioner to prove that the footway was running through his field. Prima facie, he could not prove it. If that footway on bandh is available, whether it causes

harm to the use and enjoyment of the field of the petitioner is a question of fact and proof. Such type of disputes are civil disputes for which the appropriate Courts have been established.

5. Learned counsel for the petitioner referred to one rough sketch map and learned counsel for the respondent referred to a spot inspection report. Reading these documents together, the sketch map appears matching with the contents of the spot inspection report. The existence of the footway is prima facie correct. Therefore, the Tahsildar as well as the Sub-Divisional Officer have correctly issued the injunction against the petitioner from not obstructing the respondent from using the said footway. Both authorities have considered the facts and what exactly was there on the spot.

6. After having gone through the impugned judgment and papers placed on record, the Court believes that the petitioner has no case. Hence, the petition stands dismissed. No order as to costs.

7. It is made clear that the right of the petitioner to prove his claim of having no footway, is kept open if any dispute is raised before the competent Court of law.

8. Civil Application No.13633 of 2016 stands disposed of.

(S.G. MEHARE, J.)