



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

WRIT PETITION NO.5386 OF 2024

Tikaram Tima Bhagmare ... Petitioner

- Versus -

The Additional District Collector, Chandrapur
and others ... Respondents

Mr. D.Y. Chatap, Advocate a/w Mr. R.S. Bhoyar, Advocate for the
petitioner.

Mr. A.M. Kadukar, AGP for respondent nos.1 to 3.

CORAM : BHARATI DANGRE &
ABHAY J. MANTRI, JJ.

DATE : 24th September, 2024.

P.C. :

The petitioner through the petition seek the following
reliefs :

*(A) Hold and declare that the communication
issued by the Respondent No.3 Ld. Tahsildar dated
13.05.2024 is illegal, arbitrary and unreasonable;
(Annexure-17)*

*(b) Hold and declare that the order passed by the
Respondent No.3 Ld. Tahsildar dated 22.06.2020 is
illegal, arbitrary and unreasonable (Annexure-3).*

(c) Hold and declare that the possession granted to the Respondent No.4 to 10 is illegal granted by the Respondent No.3 Ld. Tahsildar dated 15.05.2024 and restore the Possession of Petitioner.

2. We have heard the learned counsel for the petitioner and perused the writ petition.

The facts reveal that the petitioner and the respondents are residing on the address given in the title clause and the respondent nos.4 to 10 filed an application before the Tahsildar under Section 143 of the Maharashtra Land Revenue Code for right to way over the boundaries of Survey No.433. This application was allowed by the Collector, who granted the right of way by his order dated 11.06.2018.

3. The respondents preferred an application seeking review of the order and the Tahsildar allowed the application and granted alternate way other than the way proposed by the respondents. Thereafter, an appeal was preferred by the respondents before the Sub-Divisional Officer which was allowed on 09.12.2020 and the right of way as prayed for was granted.

4. Being aggrieved by this order, the petitioner has instituted an appeal before the Additional Collector, who upheld the order passed by the Sub-Divisional Officer.

5. The facts also revealed that the petitioner himself had filed a Civil Suit before the Civil Judge, Senior Division, Chandrapur,

which is pending and in the said suit, the respondent nos.4 to 10 have filed the counter claim.

6. In order to shortcut the entire process, what the petitioner assails before us is the communication of the Tahsildar dated 13.05.2024 addressed to the Police Inspector, Police Station, Bramhapuri for implementing the orders, for opening the right of way, in compliance of the directions which were issued by the competent authority. We fail to understand how we can exercise our writ jurisdiction, in such a scenario, as learned counsel kept on insisting that what he is assailing is only this communication, as he is quite conscious of the fact that a civil suit filed by him with a counter claim is already pending with the competent civil court.

7. For the reasons recorded above, in the wake of the pendency of the civil suit, we cannot entertain the present petition in the background, that now notice is issued by the Tahsildar over the boundaries, that were permitted the right of way in favour of the respondents.

8. The writ petition is dismissed.

(ABHAY J. MANTRI, J.)

(BHARATI DANGRE, J.)