



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

WRIT PETITION NO. 8194 OF 2023

(GANGADHAR BAURUJI CHHAPANE..VS.. SANJAYRAO UTTAMRAV AAGE & OTH.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri Deepak S. Khushalani, Advocate for Petitioner.
Shri J.B.Kasat, Advocate for Respondent Nos.1 to 6.
Shri Sachin Narale, A.G.P. for Respondent Nos.7 & 8.

CORAM : ANIL S. KILOR, J.
DATED : JANUARY 23, 2024.

1. Heard.
2. This matter pertains to obstruction created by the petitioner in the Pandhan road i.e. customary road.
3. It is the case of the petitioner that there is no approach road available from his field and despite the same the Sub-Divisional Officer vide impugned order maintained the order of the Tahsildar and directed the petitioner to remove the obstruction.
4. In this matter, the Tahsildar directed to carryout the spot inspection and also recorded the statements of the witnesses and permitted the parties to cross-examine the witnesses and thereafter the Tahsildar has reached to a conclusion that there is a customary way, which villagers are using since last so-many years. The said customary way is situated on the western side of the field Gut No.1 owned by the petitioner and it goes from North to South.

5. The Tahsildar and the Sub-Divisional Officer have concurrently held that it is the customary way and it has been obstructed by the petitioner. It has also come on record that the petitioner has cultivated the said customary way after creating obstruction in the same for the use of the villagers.

6. The map filed by the respondents is of 1869 and it shows that there is a customary way on the western side of the field of the petitioner and it goes from North to South. The said map is taken on record and marked as Article "X" for identification. The said map sufficiently shows that for more than 100 years the said road is in existence. In the circumstances, the case of the petitioner cannot be accepted that there is no such customary way from the western side of his field, unless it is proved contrary.

7. The petitioner is mainly opposing the order of the Sub-Divisional Officer on the ground that in the cross-examination the witness of the applicants (respondents) admitted that there is no way from the field of the petitioner.

8. The learned counsel for the respondent Nos. 1 to 6 maintained the said statement and submits that the respondent Nos. 1 to 6 are not claiming any way through the field of the petitioner but claiming right over the customary way which is on the western side of the field of the petitioner.

9. In that view of the matter, even such admission in the cross-examination of the witnesses of the respondent Nos. 1 to 6 is of no help to the petitioner.

10. In the circumstances, as there is no illegality committed by the Tahsildar as well as the Sub-Divisional Officer, I am not inclined to interfere with the orders of the Tahsildar and the Sub-Divisional Officer.

11. Accordingly, the Writ Petition is **dismissed**. No order as to costs.

JUDGE