



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

28 CONT. PETITION NO. 664 OF 2023
IN WP/12965/2017

NANDLAL S/O. HIMMAT PATIL AND OTHERS

VERSUS

RAJU S/O. SHRAWAN GHEPE

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Mr. B. K. Patil, Advocate for the Petitioner

Mr. S. V. Hange, AGP for the Respondent

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CORAM : AJIT B. KADETHANKAR, J.

DATE : 13.10.2025

PER COURT :-

1. Heard Shri Patil, the learned counsel representing the petitioners as well as Shri Hange, the learned AGP for the respondent, at length.

2. In brief, the case of the petitioner is that there is civil dispute pending in the court of learned Second Joint Civil Judge, Junior Division, Pachora, between the petitioners verses one Mansaram Patil (died, per L.Rs.) and the Sarpanch of Grampanchayat Veruli Khurd, Taluka Pachora, District Jalgaon. Shri Patil, learned counsel would submit that an application under

Order XXVI of the Code of Civil Procedure, was filed by the petitioners in the trial Court, which was rejected. As against that rejection, the petitioners filed Writ Petition No. 12965 of 2017. It appears that upon hearing the parties, the said writ petition came to be allowed vide order dated 11.07.2022, thereby directing to appoint the Taluka Inspector of Land Records (T.I.L.R.), as a Commission under Order XXVI of the Code of Civil Procedure. A timeline was also given to the T.I.L.R. to carry out commission and to submit its report to the learned trial Court. The present Contempt Petition is filed by the petitioners submitting that for one or the other reason, the said authority i.e. T.I.L.R. had been hesitating to obey the directions issued to him and also had been avoiding to conduct the commission. He would submit that the T.I.L.R. has predominantly expressed his inability to conduct the commission for the reason that the subject matter property was falling during the territorial jurisdiction of the then Grampanchayat, where city survey scheme was not applicable. Learned counsel Mr. Patil would submit that, upon filing of this contempt petition and having received the notice in the contempt petition, the said T.I.L.R. has carried out the commission. Shri Patil would submit that the fact that the commission has been carried out,

is accepted, is not disputed by the petitioners. Shri Patil would, however, point out to the reply affidavit filed by the said authority, wherein, some additional information was addressed by the said authority to the petitioners. Shri Patil, the learned counsel would submit that the petitioners were not happy with the contents of the commission report. He would submit that the vital issue in the learned trial Court is of encroachment, but, however, the commission report is silent on the part of encroachment. Shri Patil, learned counsel would submit that it is expected that the commission ought to have marked the encroachment, if any and ought to have submitted report to that effected.

3. Shri Patil, the learned counsel would submit that the job done by the commission is half hearted and doesn't disclose the physical position as regards to the encroachment. As such, Shri Patil would submit that even the T.I.L.R. has informed to the petitioners that in view of application of the City Survey Scheme to the concern village panchayat, the petitioners may even move for online application. Shri Patil, learned counsel would submit that, by this, the respondent T.I.L.R. has committed contempt of this Court and he may dealt accordingly.

4. Shri Hange, the learned AGP representing the respondent, submits that the order passed by this Court has been complied with by the respondent. It is undisputed, even by the petitioners, that the commission has been carried out. In view of this, he submits that the petition be dismissed, as no case of contempt is made out.

5. Upon hearing the parties at length, I am of the considered view that the respondent T.I.L.R. has carried out the commission. The displeasure of the petitioner is on the content of the report and the manner in which the commission is carried out. In contempt proceedings, this Court will not go into the correctness of the procedure and the contents of the commission report. It is an undisputed fact, as also admitted by the petitioner, that the commission itself is conducted by the T.I.L.R. In view of this, no case for contempt is made out. The petitioner has every remedy available under the Code of Civil Procedure to seek a proper commission to his satisfaction, if he so desires and is so advised.

6. Even it is a trite law that the report submitted by the commission under Order XXVI, is subject to cross examination by the respective parties.

7. Both parties submit, by mutual consent, that the nomenclature of the T.I.L.R. has been changed to Deputy Superintendent of Land Records.

8. In view of this, the contempt petition stands disposed of.
No order as to costs.

[AJIT B. KADETHANKAR, J.]

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