



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

10 WRIT PETITION NO. 11392 OF 2025

DATTATRAY SARJERAO PATHARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....

Mr. Y. R. Neb, Advocate for the Petitioner
Mr. V. M. Kagne, AGP for the Respondent/State

CORAM: SMT. VIBHA KANKANWADI AND
HITEN S. VENEGAVKAR, JJ.

DATE : 1st DECEMBER, 2025

P. C. :-

1. Present petition has been filed for following reliefs:

"(C) To direct the respondent authorities to comply with the order dated 26/02/2021 passed by the Respondent No.5 in Rasta Case No. 13/2008 as per the law and rules framed thereunder and for that purpose issue necessary writs and orders.

(C) To direct the Respondents No.5 and 6 to execute the order passed by the Respondent No.5 in Rasta Case No. 13/2008 dated 26/02/2021."

2. Heard learned Advocate for the Petitioner.

3. Learned AGP waives notice for Respondent Nos. 1 to 6.

No necessity to issue notice to Respondent No.7.

4. It appears that the Petitioner had filed a Rasta Case bearing No. 13 of 2008 under Section 5(2) of the Mamlatdar's Courts Act on 31.10.2008 for getting access to his agricultural land in Gut No. 1559 through east side of Gut No. 1560 owned by Respondent No.7. In the said case compromise took place before Tahasildar and by order dated 18.11.2011 application or petition by the Petitioner was partly allowed. It appears that Respondent No.7 had filed R.T.S. Appeal No. 27 of 2012 before Sub Divisional Officer, Shrirampur who partly allowed the revision and remanded the matter back to Tahasildar. After its remand it appears that there was a compromise between the petitioner and Respondent No.7 on 17.07.2020 when the spot inspection was held. The statement of the Petitioner as well as Respondent No.7 was recorded and then in view of the said statement, Tahasildar, Rahuri disposed off the matter on 26.02.2021. Now it is stated that the petitioner had approached for the implementation of the order and according to the Petitioner, Respondent No.7 is now not allowing the said compromise to take effect and hence, the present petition has been filed.

5. The first and foremost fact that is required to noted is

that the Tahasildar, Rahuri has disposed off the application on 26.02.2021 in view of the statement that there is a compromise between the Petitioner and Respondent No.7 on 17.07.2020. If we see the joint statement, then it can be seen that by making compromise it was impressed to that they would prepare the road and for that purpose they both agreed for the measurement to be made. Now it is not clear as to whether the measurement had taken place. If Respondent No.7 has thereafter withdrawn the consent and not abiding by, then the Petitioner has remedy elsewhere. We are of the opinion that the order dated 26.02.2021 passed by Tahasildar, Rahuri is not on the basis of adjudication and therefore, we have doubt as to whether it can be put to execution. Under such circumstance, this is not the subject matter of consideration in writ jurisdiction under Article 226 of the Constitution of India.

6. The Writ Petition is disposed of at the threshold.

[HITEN S. VENEGAVKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

ssp