

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5899 OF 2024

Tej Gyan Foundation Thr.
Its Authorized Representative ... Petitioner

Versus

Union of India and Ors. ... Respondents

Mr. Tejesh Dande, a/w Bharat Dadhavi i/b. Parth Talekar and
Mansi Dande for Petitioner.

Mr. T.J. Pandian, a/w Gautam Modanwal and Noorjahan Khan
for Respondent Nos.1, 3, 4, 5, 7 and 8.

**CORAM : M.S. Sonak &
Advait M. Sethna, JJ.**

DATED : 3 October 2025

P.C.:-

1. Heard Mr Dande, learned counsel for the Petitioner
and Mr Pandian, learned counsel for the Respondents.

2. The Petitioner challenges the order dated 23
December 2022 disposing of the Petitioner's representation.
The Petitioner has alleged that he is the owner of property
bearing Gat No. 846 at Mouje Avhane, District Jalgaon, to the
extent of 86 Are. The Petitioner has alleged that Western
Railways has encroached upon the Petitioner's property.

3. Mr Dande first complains that no hearing was given to the Petitioner before the order dated 23 December 2022 was made, although this Court had directed such a hearing to be held. Secondly, he states that the impugned order refers to some unilateral survey undertaken in the year 1935, of which not even a copy was furnished to the Petitioner. On these grounds, he submits that the impugned order must be set aside.

4. Mr. Pandian states that this Court's order had not required any personal hearing. Still, a notice was given to the Petitioner to remain present at the site, and accordingly, the Petitioner's representative remained present at the site, and was heard.

5. Mr Pandian submits that this Petition raises disputed questions of fact which cannot be agitated in a writ petition. He submits that if the Petitioner is confident of its allegation regarding encroachment, it is for the Petitioner to prove such allegation in accordance with the law before the appropriate forum.

6. We have considered the rival contentions, and we see no good reason to interfere with the impugned order.

7. This Court's order dated 6 July 2022 disposing of Writ Petition No.9294 of 2021 had nowhere directed the grant of any personal hearing. Still, the Petitioner's representative was issued notice and heard at the site.

8. Besides the issue mentioned above, we find that allegations of ownership and encroachment generally cannot be decided solely based on representations, especially not in summary proceedings under Articles 226 and 227 of the Constitution of India. Such allegations typically need to be litigated through a suit, where both parties are given a full opportunity to substantiate their respective claims. The material on record is not sufficient to establish title of either party and consequently, any patent encroachment. A detailed investigation into facts would be essential. Documentary and perhaps oral evidence would be necessary. All this is not ordinarily undertaken in a writ petition under Article 226 of the Constitution.

9. Accordingly, on the ground that this Petition involves highly disputed questions of fact which cannot be adjudicated in these summary proceedings, we decline to entertain this Petition.

10. However, we clarify that the fact that we are not interfering with the impugned order should not be taken to mean that we have accepted or approved this order. We clarify that these are matters we would not like to address in the exercise of our summary jurisdiction under Articles 226 and 227 of the Constitution of India.

11. Therefore, if the Petitioner institutes a suit, it will have to be decided on its own merits and in accordance with the law, uninfluenced by the impugned decision dated 23

December 2022 or any observations in this order. All contentions of all parties on the merits of the rival allegations are explicitly kept open.

12. The petition is disposed of with liberty in the above terms, and no order for costs is made.

(Advait M. Sethna, J)

(M.S. Sonak, J.)