



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Writ Petition No. 110 of 2025

[Madan S/o Maraji Khandare and anr. ..vs.. The Collector, Buldhana and ors.]

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

Court's or Judge's orders

Mr. G. S. Shegoankar, Advocate for the petitioners
Mr. H. R. Dhumale, AGP for respondent nos. 1 to 3
Mr. K. P. Mahalle, Advocate for Caveator/respondent no. 4

CORAM : ANIL L. PANSARE J.

DATED : 15-01-2025

Heard.

2. The petitioners – plaintiffs claim to be in possession of land admeasuring 2.07 HR in Survey/Gat No. 2, Class II land. The petitioners admit that they are not the owners of the land. The pleadings indicate that they were required to pay penalty for holding possession. Thus, petitioners are in unauthorized occupation of the aforesaid surveys.

3. According to the petitioners, respondent no. 4 – Municipal Council is all set to take possession of the suit property. Learned counsel for Municipal Council on caveat submits that the Government of Maharashtra has allotted land bearing Survey No. 19 to it for implementation of integrated housing and slum development program. The allotted land was measured and possession was given to Municipal Council vide registered lease deed dated 24-9-2012. According to Municipal Council, the petitioners though are claiming to occupy Survey No. 2 are

in fact making an attempt to encroach upon Land Survey No. 19.

4. In the light of above, following observations made by the first appellate Court are relevant, which read thus :

“16. Copy of map issued on 20-07-2015, at paper-book page No. 53 show that, S.No. 19 (Old No. 12) is ‘E-Class’ land and road passes through it and S.No. 19 and do not show S.No. 2 adjacent to it. The map of S.No. 19 prepared vide Mojani No. 1 of 2012 at paper-book page No. 163 show the same position and Janefal road passes through S.No. 19. Further, respondent No. 3 to 5 produced copy of map showing old survey numbers and new survey numbers which show that, S.No. 2 and S.No. 19 are not adjacent but distinct from each other. This position show that, Janefal raod is neither adjacent nor passes through S.No.2. This prima facie affects the contention of plaintiffs that, suit land is of S.No. 2 and within boundaries as mentioned in plaint.”

As could be seen, the first appellate Court having gone through map issued on 20-7-2015 held that two surveys i.e. Survey No. 2 and Survey No. 19 are not adjacent but are far from each other and further the Janefal Road is neither adjacent nor passes through Survey No. 2. This finding is rendered in context with the boundaries mentioned by the petitioners wherein to the North is shown Janefal Road.

5. The petitioners have challenged this finding but have not placed on record the map issued on 20-7-2015 referred to by the first appellate Court. In the circumstances and having gone through the reasons so assigned by the first appellate Court, it appears that the

petitioners are unauthorized occupants of land bearing Survey No. 2. They have no concern with the land bearing Survey No. 19. The boundaries shown in the plaint are incorrect. The land under question is allotted by the State Government to respondent no. 4 for development work. The petitioners cannot withheld the work without there being any authority to occupy the property under question. There appears no merit in the petition. No interference is called for in the supervisory jurisdiction under Article 227 of the Constitution. Writ petition is dismissed with no order as to costs.

(Anil L. Pansare, J.)

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