

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

WRIT PETITION NO. 3109/2020

(Ashok Vasantrai Trivedi and ors vs. Sub Divisional Officer and
others)

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

Court's or Judge's orders

Mr. G.A.Kunte, Advocate for the petitioners
Mr. S.D.Shirpurkar, AGP for Respondent Nos. 1 to 3 and 5
Mr. S.N.Bhattad, Advocate for Respondent No.4

CORAM : AVINASH G. GHAROTE, J.

DATE : 30/08/2021

All the learned counsels appearing for the respective parties agree that in view of the affidavit by the respondent no.1, dated 03.08.2021, wherein it has been stated in para 3 that the acknowledgment in respect of notice issued to the present petitioners is not found and is not in the record of the answering respondent, the question of service of notice to the petitioner assumes importance.

It is an admitted position that the petitioner is the owner of Khasra No. 4 of Mouza-Bhamti and respondent No. 4 is the owner of Khasra Nos. 5, 6, 7 and 8. It is also an admitted position that the measurement and the demarcation of the boundaries have to be done only in respect of land of Khasra Nos. 4 and 5, so as to determine the issue of encroachment. Mr. Kunthe, learned counsel for the petitioners makes a categorical statement that the petitioners have nothing whatsoever to do with the land of Khasra Nos. 6, 7 and 8.

In view of the fact that the impugned order has been passed, without notice to the petitioners and without hearing them, on this short ground alone, the same is quashed and set aside. The matter

is remanded back to the respondent no.1, who shall measure the land of Khasra Nos. 4 and 5, determine their boundaries and any encroachment made thereupon.

The parties to appear before Respondent No.1 on 06.09.2021. Any application for area correction made by the petitioners, in case the same is pending, be decided along with the measurement and determination of the land of Khasra Nos. 4 and 5. The matter shall be decided by the respondent no. 1, within the period of two months from the date of receipt of the order of this Court.

The parties are directed to place the net downloaded copy of the order before the Respondent No.1, upon which Respondent No.1 shall act upon.

The writ petition is accordingly disposed of.

JUDGE

Rvjalit