

drp

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7524 OF 2015

Kamalbai Babasaheb Kuklare
Age - 31 years, Occ-Household
R/o Dongaon, Taluka - Gangapur
District - Aurangabad

PETITIONER

VERSUS

1. The State of Maharashtra
Through its Secretary,
Rural Development Department,
Mantralaya, Mumbai
2. The State Election Commission,
Madam Kama Road,
Fort, Mumbai
3. The Returning Officer for
Elections to Grampanchayat, Dongaon,
Taluka - Gangapur
District - Aurangabad
4. Gram Panchayat, Dongaon,
Taluka - Gangapur, District - Aurangabad
Through its Gramsevak,
5. Rambhabai Dnyaneshwar Kuklare,
Age - Major, Occ - Household
R/o Dongaon, Taluka - Gangapur
District - Aurangabad

RESPONDENTS

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Mr. S. S. Thombre, Advocate for the petitioner
Mr. S. P. Daund, AGP for respondent State
Mr. S. T. Shelke, Advocate for respondents No.2 and 3
Mr. P. B. Shirsath, Advocate for respondent No.5
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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 31st JULY, 2015

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard finally with consent of learned advocates for the appearing parties.

2. The petitioner is before this court purported to have been aggrieved by overruling of objection filed by her in respect of nomination of respondent No.5 alleging that her husband had encroached over property bearing city survey No.33 admeasuring 21' X 20' and 21' X 24'.

3. Learned advocate for the petitioner submits that despite objection specifically being taken and notices with regard to encroachment over aforesaid property have been issued by concerned Gram Panchayat to husband of respondent No.5, its cognizance has not been taken and straightway nomination of respondent No.5 has been accepted. For said purpose, he relies on notices, purportedly issued on 20th February, 2015 and 27th March, 2015. According to learned advocate for the petitioner, husband of respondent No.5 had avoided to receive said notices and hence *panchanamas* were accordingly drawn, copies of which are appended to the petition.

4. Learned advocate appearing for respondent No.5 tenders across a bunch of papers referring to that in respect of the property, alleged to have been encroached upon, way back in 2011, the Gram Panchayat had granted permission for construction. The sizes of the properties are the very same as 21' X 20' and 21' and 24'. He relies on documents at page No.25, 26, 27 and 28 of said bunch of papers. He submits that the notices had been issued by present petitioner, who happened to be *Sarpanch* of the Gram Panchayat at the relevant time as he apprehended that respondent No.5 may stake claim to the post of *Sarpanch*, if elected and for said purpose, record of notices has been manufactured. He submits that there is no encroachment at all and such a manufactured record could not have been relied upon at the stage of acceptance of nomination.

5. In view of aforesaid, it appears that the petition involves a lot of disputed questions. As such, the writ petition is not being entertained. Writ petition stands dismissed. Rule stands discharged.

7. It is, however, made clear that aforesaid observations are strictly confined to dismissal of the writ petition and will have no efficacy any further and shall not influence other proceedings. It

is open for the petitioner to take up proceedings in respect of acceptance of nomination of respondent No.5 at appropriate stage before proper forum, including an election petition.

[SUNIL P. DESHMUKH, J.]

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