

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

WRIT PETITION NO.2923 OF 2015

(Sau. Mangala Sewakram Matre ..vs.. Dnyaneshwar Gajanan Gawhale and others)

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

Court's or Judge's orders

CORAM : Z.A. HAQ, J.

DATED : 22-06-2015

Heard Shri S.V. Sohoni, the learned Advocate for the petitioner, Shri S.D. Chopde, the learned Advocate for the respondent No.1 and Shri T.R. Kankale, the learned Assistant Government Pleader for the respondent Nos.3 and 4.

2. The petitioner has challenged the order passed by the learned Additional Commissioner, allowing the appeal filed by the respondent No.1 and holding that the petitioner is disqualified from continuing as the member of Gram-Panchayat till the encroachment is removed by her. It is submitted on behalf of the petitioner that the land Survey No.81 was under the possession of Maroti Tulshiram Matre (brother of the petitioner's husband) and Smt. Narmada Tulshiram Matre (mother-in-law of the petitioner) and the authorities had recovered the fine from above named two persons, for encroaching on the Government land. The learned Advocate has pointed out the receipts showing the payment of fine for the years

2007, 2008 and 2009.

3. Shri S.D. Chopde, the learned Advocate for the respondent No.1 has submitted that the learned Additional Commissioner has recorded the finding of fact that the petitioner has encroached over Survey No.81 which is Government land, relying on the certificates issued by the Talathi on 28-07-2014 and 06-08-2014. It is submitted that earlier the encroachment was by Shri Maroti Tulshiram Matre and Smt. Narmada Tulshiram Matre, however subsequently i.e. from the year 2010 the petitioner has encroached on the land.

4. The petitioner has not been able to point out that the findings of fact recorded by the learned Additional Commissioner are perverse or are not based on any material on the record. There is no explanation as to why the receipts showing the payment of fine by Maroti Tulshiram Matre and Smt. Narmada Tulshiram Matre for the subsequent years i.e. from 2010 onwards are not produced on the record. There is no explanation in the petition to controvert the findings of fact recorded by the learned Additional Commissioner relying on the certificate issued by the Talathi on 28-07-2014. The findings of fact recorded by the learned Additional Commissioner being based on material placed on the record, I am not inclined to interfere in the extraordinary writ jurisdiction. The writ petition is dismissed.

In the circumstances, the parties to bear their own costs.

JUDGE

pma