

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

WRIT PETITION NO. 5090/2015

(Mrs.Uma madhaorao Deshpande vs. The State of Maharashtra and others)

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

Court's or Judge's order

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Mr. A.C. Dharmadhikari, Advocate for petitioner
Mr.D.B. Patel, Asst.Govt.Pleader for respondents 1 to 4

**CORAM : SMT.VASANTI A. NAIK &
A.I.S.CHEEMA, JJ.**

DATED : 1st September, 2015.

Heard.

By this petition, the petitioner seeks a a direction to the respondent nos.1 to 4 to remove the illegal construction for cremation on the field Survey No.231 owned and possessed by the petitioner.

According to the petitioner, though the petitioner is the owner of the agricultural land in Survey No.231, the Gram Panchayat has illegally constructed a tin-shed in the land owned and possessed by the petitioner and the said land is being used by the Gram Panchayat for cremation. The petitioner has sought a direction to respondent nos.1 to 4 to remove the illegal construction made by the respondent no.5 on the land on the petitioner. The petitioner has also sought a direction against the respondent no.5 to pay compensation to the petitioner towards the illegal use and occupation of the land of the petitioner.

The relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction. If the petitioner is the absolute owner of the field in which the illegal construction has been made by the respondent no.5 for cremation, it would be necessary for the petitioner to file a Civil Suit for permanent injunction. The petitioner can also seek an interim direction in the said suit against the respondent no.5 and the other respondents. Instead of availing the appropriate remedy, the petitioner has rushed to this Court seeking indulgence of this Court in exercise of the writ jurisdiction.

Since the question of ownership and title and the question of illegal construction and compensation payable for the same could be decided by a Civil Court after considering the evidence tendered by the parties, we decline to entertain the Writ Petition. The Writ Petition is disposed of with no order as to costs.

The points raised in the petition are kept open.

JUDGE

JUDGE

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