

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 1113 OF 2014

SIDDESHWAR GANGADHAR LANGE AND OTHERS
VERSUS
VILLAGE PANCHAYAT, WADWANI

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Advocate for Petitioners : Mr. D.P. Palodkar
Advocate for respondent Nos. 1: Mr. A.B. Kale h/f Mr. S.J. Salunke
Government Pleader for Respondents 2 and 3: Mr. A.B. Girase with Mr.
B.A. Shinde, AGP

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CORAM : V. K. JADHAV, J.
DATED : 17th FEBRUARY, 2016

PER COURT:-

1. With consent of the parties, heard finally at admission stage.
2. The village Panchayat Wadwani was trying to evict the petitioners, who are in possession of small plots situated in Gat No.214. In fact, this land belongs to Government and purpose is to establish weekly market. The village Panchayat has made public announcement directing the petitioners to vacate the premises. Consequently, the petitioners have challenged the action of the village Panchayat by filing writ petition Nos. 3008 of 1013 and 3096 of 2013. The basic grievance of the petitioners was that the said land Gat No. 214 does not vest in village Panchayat and it vests in Government and since the Government has not initiated any proceedings for eviction of the petitioners, the action proposed by the

Village Panchayat is unwarranted and uncalled for. The Division Bench of this Court, by common order has disposed of said writ petitions with observations that land does not vest in Gram Panchayat and it is Government land and further directed to follow due procedure of law before taking any action in respect of occupation of the petitioners. The said order was passed by the Division Bench on the basis of affidavit filed by the State in those writ petitions. The Village Panchayat issued notices to the petitioners thereby directing the petitioners to vacate the properties within 48 hours. The petitioners approached the Divisional Commissioner, Aurangabad by filing appeal under the provisions of Section 53 of the Maharashtra Village Panchayat Act. The learned Additional Divisional Commissioner by order dated 24.1.2014 has directed the Collector, Beed to conduct thorough enquiry into the case and further directed the Collector to issue notice to both the parties and give sufficient opportunity to adduce evidence, if any, and then decide the case in the light of order passed by the Division Bench of this Court, as stated above. Hence, this writ petition.

3. Learned counsel for the petitioners submits that even though the learned Additional Divisional Commissioner has directed the Collector to conduct an enquiry into the matter, vacated the status quo order granted by the Commissioner on 2.9.2013. The learned

counsel submits that by taking undue advantage of said order of vacating status quo, the respondent Village Panchayat, Wadwani which is now converted into Nagar Panchayat, approached the police and with the aid of police, except the petitioners, removed the encroachments made on land Gat No.214. So far as the petitioners are concerned, because of the interim order passed by this Court, they are protected. Learned counsel by referring to provisions of Section 53 of the Maharashtra Village Panchayat Act, submits that the Additional Divisional Commissioner has passed an order which is beyond scope of Section 53 of the said Act. Learned counsel submits that even though the Village Panchayat is now converted into Nagar Panchayat, still as per the provisions of Section 181 of the Maharashtra Municipal Council, Nagar Panchayat and Industrial Township Act 1965, similar action can also be undertaken in the light of that provision.

4. Learned counsel for respondent No.1 submits that the property Gat No. 214 belongs to village Panchayat and the property as such does not vest in the Government. Learned counsel further submits that if at all the petitioners are aggrieved by the order of the Additional Commissioner, vacating the order of status quo, the petitioners may file an application before the Collector in the said enquiry and the Collector may take appropriate decision on the said

application filed by the petitioners.

5. Learned Government Pleader appearing for respondent Nos. 2 and 3 submits that on the basis of affidavit submitted on behalf of the State Government, the Division Bench of this court has directed that only after following due process of law, encroachments, if any, can be removed by the Government. The learned Government Pleader further submits that so far as land Gat No.214 is concerned, the land vests in the Government, reserved for weekly market and the learned Commissioner has rightly directed the Collector to conduct enquiry into the matter.

6. In view of the circumstances appearing in the case and considering the background, the learned Additional Commissioner has directed the Collector to conduct thorough enquiry into the matter by giving opportunity of being heard to both the parties and also in the light of the order passed by the Division Bench of this Court in aforesaid writ petitions. So far as the apprehension expressed by the learned counsel for the petitioners is concerned, the petitioners are at liberty to tender an application before the Collector in the enquiry, which is yet to be commenced. The learned Government Pleader at this stage, makes a statement that within two months from today, the Collector would complete the enquiry in the matter. Since the

enquiry yet to commence in the matter and the learned Government Pleader has made a statement that the Collector would complete the enquiry within two months from today, by granting liberty to the petitioners to file an application before the Collector, for maintaining status quo, till the enquiry is concluded, this writ petition can be disposed of and accordingly the writ petition is disposed of with the above observations.

7. Since the enquiry is yet to commence, till the application is filed by the petitioners within a week after commencement of enquiry and considered by the Collector, on its own merits, the parties are directed to maintain status quo as on today in respect of alleged encroachment.

8. The Collector to notify the date of commencement of enquiry.

9. Writ petition is disposed of. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

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