

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6881 OF 2016

Sou. Kalpana Maruti Bhise & Anr. Petitioners

Vs.

The Collector, Kolhapur & Ors. Respondents

Mr. S.S. Patwardhan i/by Anand S. Patil, Advocate for the
Petitioners.

Ms. M.S. Bane, AGP for Respondents no. 1 and 2.

Mr. Vijay D. Patil, Advocate for Respondents no. 3 and 4.

Coram : Smt. R.P. SondurBaldota, J.

Date : 27th July, 2016

P.C.

1 This petition challenges the order dtd. 16th June, 2016,
by which the Additional Commissioner, Pune Division, Pune
refused to grant interim stay of the order passed by the Additional
Collector disqualifying petitioner no. 1 to continue as Sarpanch of
Gram Panchayat, Chande.

2 On 19th February, 2016, a complaint was made by
respondent no.3 alleging that petitioner no.2, the husband of
petitioner no.1 has encroached upon the land at Gat No.14

belonging to the government by drawing crop of ground-nuts on a portion thereof. The Additional Collector heard the parties on the complaint and passed his order dtd. 30th May, 2016 allowing the complaint and holding that petitioner no.1 is disqualified in view of Section 16(1)(a) of Mumbai Grampanchayat Act from acting as Sarpanch of the village. Being aggrieved by that order, the petitioners have preferred appeal to the Additional Commissioner being Appeal No. 42 of 2016 and sought an interim stay of the order of the Additional Collector.

3 Mr. Patwardhan, the learned advocate for the petitioners submits that the impugned order is a short and cryptic order. It does not state the reasons for refusal of the interim relief and therefore the same cannot be sustained. Irrespective of the nature of the order, the question to be considered is whether the petitioners are entitled to interim reliefs as prayed for. There is a specific allegation that petitioner no.2, the husband of petitioner no.1 has encroached upon the government land in the year 2013 and has been cultivating the same. He has been drawing crop of ground-nuts therefrom. This fact is disclosed in the panchanama dtd. 12th May, 2015 and 13th January, 2016 conducted by the Tahsildar and the report made by him to that effect. Neither in the reply to the complaint filed by respondent no.3, nor in the present petition, there is a specific and categorical denial of the allegation of fact. In that circumstance, there was no prima facie case made out by the petitioners for grant of the interim relief. Therefore

there can be no interference with the impugned order. Hence, the petition is dismissed.

(Smt. R.P. SondurBaldota, J)