

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8183 OF 2016

Mr. Sambhaji Popatrao Jagtap

.....Petitioner

V/s.

Mr. Chandrakant Maruti Gadekar
and Ors.

.....Respondents

* * * * *

Mr. Chaitanya Nikte, Advocate for the petitioner.

Ms. Vaishali Nimbalkar, AGP for respondents no.2 to 24.

CORAM :- SMT. R.P. SONDURBALDOTA, J.

DATED :- 11TH AUGUST, 2016.

P.C. :-

1 This petition is directed against the order dated 30th June, 2016 passed by the Additional Commissioner, Pune Division, Pune refusing interim relief to the petitioner in the Appeal preferred by him under Section 16(2) of the Maharashtra Village Panchayat Act, 1958 ("the Village Panchayat Act" for short). On the application filed by respondent no.1, the Additional Collector by his order dated 31st May, 2016 held the petitioner disqualified under Section 14(1)-J(3) of the Village Panchayat Act to continue as a Member of Gram Panchayat, Waki. The allegation against the petitioner is that, his mother, namely Rukmini Popatrao Jagtap has encroached upon the

government land being Grampanchayat property bearing no. 308 by constructing structures thereon admeasuring 420 sq.ft, 372 sq.ft and 450 sq.ft together admeasuring 1264 sq.ft. The petitioner had contested the application of respondent no.1 contending that, neither he nor any of his family member have encroached upon the property being Grampanchayat No.308 and they have no relation with the property described. According to him, the appellants are residing in Grampanchayat property bearing no.307 and have not encroached upon any portion of property no.308. The other contention taken up by the petitioner was that, he has separated from his parents and as such he is not enjoying the property of encroachment.

2 The evidence of encroachment relied upon by respondent no.1 and produced before the Additional Collector was Format No.8 of Grampanchayat property showing existence of structure of the mother of the petitioner on property no.308. The petitioner contends that, the entry in Format no.8 cannot be believed or accepted since no proper procedure had been followed before entering the remark in Format-8 Register. He had sought information from the Grampanchayat as regards the Grampanchayat resolutions to support the entry of encroachment in the Register and claims that by the letter dated 14th April, 2016, Grampanchayat, Waki has informed him that there is no resolution or agenda resolving that the name of the mother of the petitioner be entered for encroachment on Grampanchayat property no.308.

3 The Additional Collector, after hearing both the sides, by his order dated 31st May, 2016 allowed the dispute application of respondent no.1 and declared the petitioner as “disqualified” to continue as a Member of Grampanchayat. The petitioner preferred appeal before the Additional Collector and filed application for interim relief of stay of the order of the Additional Collector. That application was dismissed by the Collector by the impugned order.

4 Mr. Nikte, the learned Advocate appearing for the petitioner, reiterated the contention of the petitioner before the Additional Collector that the entry of unauthorised construction on the government land by the mother of the petitioner is not supported by resolution of the Grampanchayat and therefore the same should not be accepted as evidence of encroachment by the mother. Mr. Nikte, however, has not been able to point out any provision under the Maharashtra Village Panchayat Act which requires the Grampanchyat to pass a Resolution before entering fact of encroachment in the revenue records. Format-8 register, *prima-facie*, establishes encroachment on the government land by the mother of the petitioner.

5 Mr. Nikte, then draws attention to the impugned order to submit that the same is a short and cryptic and unreasoned order. He submits that, the Additional Commissioner being quasi-judicial authority for the purposes of appeals preferred before him, the order cannot be maintained. There is no doubt that, the order passed by the Additional Commissioner does not state the reasons

for refusal of interim relief to the petitioner. It is a short and cryptic order of which a format appears to have been prepared and used. This is unfortunate. It is incumbent upon the quasi-judicial authority to state reasons for its decision while deciding upon the rights of the parties before it. However, considering the petitioner's case on merits on a, *prima-facie* view of the matter, the petitioner is not entitled to any interim relief as sought by him. Hence, the petition is dismissed.

(SMT. R.P. SONDURBALDOTA, J)