

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Writ Petition No. 3970 of 2015
[Ramrao Kesharao Dhande Vs. State of Mah. & others]

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

Court's or Judge's orders

Mr. A.C. Wasnik, Adv., for the petitioner.
Mrs. A. Taiwade, AGP for respondent nos. 1 to 5.
Mr. Gaurav Singh Sengar, Adv., for respondent no.6.

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CORAM : P.B. VARALE, J.

DATE : 05th December, 2016

Heard.

By the present petition, the petitioner, i.e., Gram Panchayat of village Tondli, Tq. Mouda, is challenging the order passed by the Additional Commissioner, Nagpur Division, Nagpur.

Perusal of the material placed on record shows that an application was made at the instance of the Sarpanch, Gram Panchayat, Todli, to Tahsildar, Mouda, in respect of cultivation of certain lands out of Gat No. 132, namely the Gaothan land, by some persons. It

seems that there was a dispute in respect of .41 R of land. An enquiry seems to have been conducted in the matter. The Naib Tahsildar, Mouda, passed order dated 3rd December, 2010.

Being aggrieved by the said order, the respondent no.6 preferred an appeal before the Sub-Divisional Officer. By order dated 3rd December, 2010, the Naib Tahsildar, subject to certain conditions and the record of rights, granted permission to the villages to cultivate a part of the Gaothan land. The Sub-Divisional Officer on giving a detailed hearing as well as on perusal of the record, enquiry reports, found that the Naib Tahsildar by exceeding his powers passed the order. The Sub-Divisional Officer was of the opinion that the said power vests with the Collector only under the provisions of the Land Revenue Code, and more particularly under Section 165 of the said Code.

The order of the Sub-Divisional Officer was challenged by the petitioner - Panchayat before the Additional Collector, Nagpur. The Additional Collector found no fault with the order of Sub-Divisional Officer and in his order, he maintained the order of the Sub-Divisional Officer.

Being aggrieved by the order passed by the Additional Collector, the petitioner - Panchayat approached the Divisional Commissioner. In the Review

Petition, the Additional Commissioner, considering all these aspects, found that no error was committed by the Sub-Divisional Officer and as such the Additional Collector was right in maintaining the order passed by the Sub-Divisional Officer. The Additional Commissioner further made it clear that if the persons, who were cultivating the land either under some orders or inheritance or precedence, are at liberty to approach the Collector, Nagpur, for redressal of their grievance.

On the backdrop of the observations of the Additional Commissioner, when a query was put to the counsel for the petitioner that what prejudice is caused to the petitioner when the Commissioner made it clear that the if the persons who are cultivating the land are having any grievance, they can certainly approach the Collector by filing necessary proceedings/application, the counsel submits that no prejudice is caused to the Panchayat. He submitted that it was the only apprehension of the petitioner that the order is against the petitioner-Panhayat. Thus, considering the order impugned in the petition, material placed on record and the submission of the learned counsel, in my opinion, no error is committed by the learned Commissioner in the order dated 23rd February, 2015. The Commissioner also granted liberty to the persons/villagers to approach the Collector if they are having any grievance in respect of cultivation rights. If such an exercise is undertaken by those villagers, the Collector would surely decide the

application on its merits. The petition, thus, being meritless, deserves to be dismissed and the same is accordingly dismissed.

Judge

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