

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

WRIT PETITION NO. 3732 OF 2015

(Gajanan Mahadeo Dandge & Ors. vs. State of Maharashtra thr. Secretary, Forest and Revenue
Department & Ors.)

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

Court's or Judge's orders.

**CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA JAIN, JJ.
JULY 04, 2016.**

Heard Shri J.B. Gandhi, learned counsel for the petitioners, Shri N.S. Rao, learned AGP for respondent Nos. 1 & 2, Shri S.V. Sohoni, learned counsel for respondent Nos. 3 & 4 and Shri V.G. Wankhede, learned counsel for respondent No. 5.

The grievance of the petitioners is, though they have been given lease of a plot of land by Respondent No. 5 and were carrying on their business on the said piece of land as per law, all of a sudden and without any notice, Respondent Nos. 3 & 4 have dispossessed them on the assumption that the petitioners are encroachers.

Shri Sohoni, learned counsel is relying upon the reply affidavit. According to him, the petitioners have trespassed on the public road after M.S.R.T.C. plot and their establishments were constructed on public road, hence, without disturbing their possession on the piece of land leased out to them by the M.S.R.T.C., shops constructed on the public road have been removed.

Shri Wankhede, learned counsel for respondent

No. 5 does not dispute the submissions of Shri Sohoni, learned counsel.

The learned AGP submits that he is still awaiting instructions in this respect.

Shri Gandhi, learned counsel wants to rely upon some documents and submit that the petitioners were validly placed in possession by the M.S.R.T.C. and their structures were not encroachment upon the public road. At this stage, Shri Gandhi, learned counsel submits that M.S.R.T.C. itself had encroached on the government land, constructed a compound wall, shops within the compound wall and the shops were then leased out to the petitioners. He further adds that Respondent No. 3 – Corporation had thereafter given a notice to Respondent No. 5 to demolish that compound wall.

It is apparent that several disputed questions of fact arise in the matter. Hence, without recording any finding on any disputed question and with liberty to the petitioners to take such steps as are open to them in law, we dispose of the present writ petition. However, there shall be no order as to costs.

JUDGE

JUDGE

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