

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

WRIT PETITION NO.4923 OF 2015

Deorao s/o Dhiwaru Bodalkar and ors.

-vs-

Additional Commissioner, Nagpur Division, Nagpur and ors.

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

Court's or Judge's Orders.

Shri P. V. Thakre, Advocate for petitioners.
Shri S. Ahirkar, AGP for respondents.

CORAM : A.S.CHANDURKAR, J.

DATE : JUNE 13, 2016

Heard. The petitioners are aggrieved by the orders passed by the revenue Authorities whereby the encroachment caused by the petitioners have been directed to be removed.

It is the case of the petitioners that the land in question is in their possession since 1980-81 and that they have been taking crops from the said lands. According to the petitioners land admeasuring 5H 27R was infact allotted to the Forest Department and therefore it could not be said that the petitioners had committed any encroachment on the same.

Shri P. V. Thakre, the learned counsel for the petitioners by relying upon the observations made in the order passed by the Sub-Divisional Officer submitted that the possession of the petitioners was from the year 1980-81 and

under their cultivation. The Grampanchayat by passing resolutions had regularised the possession of other villagers but the same was not done in so far as the petitioners are concerned. He has also relied upon the order passed in the year 2005 by the Circle Officer for regularisation of the encroachment.

Shri K. L. Dharmadhikari, the learned Assistant Government Pleader for the respondents by relying upon the affidavit in reply submitted that it has been found by the Authorities that the land in question was reserved for public purposes as well as for grazing purpose. The petitioners did not have any right to grow crops in said land. He therefore submitted that the directions to remove encroachment from the public land does not deserve any interference.

Perusal of the orders passed by the revenue Authorities indicates that on 08/02/1994 land admeasuring 5H 27 R from survey No.256 stood transferred to the Forest Department. The 7/12 extracts on record indicated the possession of the petitioners as encroachers as noted in Column 12. It is on this basis that the land in question that was reserved for grazing was sought to be cleared of the encroachment. The orders indicate that after considering the entire record, it has been directed that the encroachment be removed.

Though the petitioners claim entitlement to continue on forest land, in absence of any order in their favour granting the same for agricultural purposes, they cannot be permitted to continue on the same. The right as such has to be based on some order of allotment in their favour.

In view of aforesaid there is no case made out to interfere in writ jurisdiction. The writ petition is therefore dismissed with no order as to costs.

JUDGE