

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

WRIT PETITION NO. 5443 OF 2016

Bhim Sangharsha Mahila Mandal, Loni, Dist. Amravati, thr.Smt.Shilatai Ramkrushnaji Niswade

-vs-

State of Maharashtra, thr.Secretary, Revenue Department and others

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

Court's or Judge's Orders.

Mrs.S.W.Deshpande, counsel for the petitioner.
Mr. N.H. Joshi, AGP for the respondent Nos.1 and 2.

CORAM : SMT. VASANTI A NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 15.11.2016.

By this writ petition, the petitioner challenges the order of the Sub-Divisional Officer, Morshi dated 30/10/2014 rejecting the application of the petitioner for allotment of the concerned site for construction of Buddha Vihar. The petitioner has also incidentally challenged the action on the part of the gram panchayat to earmark the land that was sought by the petitioner for the purpose of anganwadi.

Shri Joshi, the learned Assistant Government Pleader appearing for the respondent Nos.1 and 2, states that the plot that was sought by the petitioner falls in field survey No.321/1 and the said land as well as the adjoining land is permitted to be converted to non-agricultural use on the request made by its owner, Shri Natthusa Agarkar. It is stated that the petitioner seeks the allotment of the land, that is private land.

Mrs. Deshpande, the learned counsel for the petitioner, states on the basis of record of rights that the land is not private land and belongs to the government.

It is apparent on hearing the learned counsel for the parties and on a perusal of the documents annexed to the petition that there is a serious dispute in regard to the ownership of the land of which the allotment is sought by the petitioner. On one hand the

petitioner claims that the land belongs to the government or the gram panchayat and on the other hand, according to the Sub-Divisional Officer, the land is private land that belongs to Natthusa Agarkar. Also, the petitioner has not pointed out any right in the petitioner to seek the allotment of the concerned land. Nothing has been pointed out on behalf of the petitioner to show that the petitioner would have a right to the allotment of the land and that a corresponding duty is cast upon the respondents to allot the land to the petitioner. It is also necessary to note that though the application of the petitioner for allotment of the land was rejected by the Sub-Divisional Officer by the impugned order dated 30/10/2014, the petitioner did not take any immediate steps to challenge the said order and the same is challenged two years later by filing this writ petition on 02/09/2016. Even if it is assumed that the land belongs to the gram panchayat, in the absence of any right in the petitioner to claim the allotment of the land, the relief sought by the petitioner cannot be granted.

In view of the aforesaid, the writ petition is dismissed with no order as to costs.

JUDGE

JUDGE