

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.6908 OF 2015

KALYAN MATSYA VYAVSAY SAHAKARI SNASTHA BORGAON MANJU
vs
STATE OF MAHARASHTRA AND OTHERS

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

Court's or Judge's orders

Shri A. B. Mirza, Advocate for the petitioner.
Ms. Tajwar Khan, Asstt. Government Pleader for respondent nos.1 to 5.
Shri N.R. Tekade, Advocate for the respondent no.6.

CORAM : A.S. CHANDURKAR, J.
DATED : JULY 11, 2016.

Heard.

The challenge in the present writ petition is to the order dated 19-6-2015 passed by the Additional Commissioner in proceedings under Section 257 of the Maharashtra Land Revenue Code, 1966.

The dispute relates to entitlement for fishing rights in regard to the tanks situated in Survey No.333 and Survey No.2. On 10-8-2012, the Tahsildar granted fishing rights in favour of the respondent no.6 for a period of five years commencing from 2012. The petitioner being aggrieved preferred an appeal but the same was dismissed by the Sub-Divisional Officer on 30-9-2014. The Additional Collector confirmed this order on 17-4-2014. Being aggrieved the respondent no.6 filed a revision petition before the Additional

Commissioner and by order dated 19-6-2015, the said revision was allowed and the upset price came to be modified to Rs.5340/- per year. Being aggrieved, said order has been challenged in this writ petition.

Shri A. B. Mirza, the learned Counsel for the petitioner submitted that the Additional Commissioner was not justified in fixing the upset price at Rs.5340/- per year as the same was on a lesser side and it resulted in loss of revenue for the Government. He submitted that in the civil suit which was filed by the petitioner, an order of *status quo* had been passed on 24-8-2012 and hence, the respondent no.6 had no right to undertake fishing operations. He, therefore, submitted that the impugned order was liable to be set aside.

Ms. Tajwar Khan, the learned Asstt. Government Pleader for respondent Nos.1 to 5 and Shri N. R. Tekade the learned Counsel for the respondent no.6 supported the impugned order. It was submitted that the Tahsildar had fixed the upset price at Rs.8010/- for the period of five years and this upset price had been increased to Rs.5340/- per year. It was submitted that in the civil court the suit as filed was in relation to the earlier period of lease pertaining from the year 2007 till 2012. It was, therefore, submitted that the impugned order does not cause any prejudice to the petitioner and hence, there is no case to interfere in writ jurisdiction.

Having heard the respective Counsel for the parties, it can be seen that the Additional Commissioner proceeded to enhance the

upset price from Rs.8010/- for a period of five years to Rs.5340/- for each year. In the appeal preferred by the petitioner either before the Sub-Divisional Officer or the Additional Collector, the ground that the upset price was on a lower side was not raised. The only basis for this challenge was the order of *status quo* passed by the Civil Court. The Additional Commissioner has observed in the impugned order that the *status quo* was with regard to the lease period of five years from 2007 to 2012. The present litigation has arisen after the period of said five years and hence, said stand was not accepted.

In absence of any other ground being raised for challenging the fixing of upset price with which the respondent no.6 is not aggrieved, there is no case made out to interfere in the writ jurisdiction. The writ petition is, therefore, dismissed. No costs.

JUDGE

/MULEY/