

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7772 OF 2015

Satish Baburao Khodave : Petitioner.
Versus
The State of Maharashtra
Through the Secretary
Water Supply and Sanitation
Department and ors. : Respondents.

Mr. P S Dani, Senior Advocate, I/by Mr. A S Patil for the Petitioner.
Mr. R M Shinde, AGP, for the Respondent/State.
Mr. R D Rane for the Respondent Nos.2 and 4.
Mr. Ganesh Bhujbal for the Respondent No.3.

**CORAM : R. M. SAVANT &
NITIN W. SAMBRE, JJ.**
DATE : 22nd OCTOBER 2018

P.C.

1 The above Writ Petition has been filed inter-alia for the relief that the Respondent Nos.1 and 2 be directed to take appropriate action against all the Respondents and all other officers who are found guilty in inquiry and who are responsible for fraud. The aforesaid relief exemplifies the relief sought vide the other prayers in the above Writ Petition.

2 The gravamen of the allegations of the Petitioner is as regards the misappropriation of funds in the matter of strengthening and deepening of a well under the Jal Swaraj Yojana which is a scheme formulated by the Government of Maharashtra to augment the water resources in the State. The allegation in the instant case is in respect of a well which is supposedly on a

plot of land which is entered in the Form No.25 in the name of the Gram Panchayat Ambawade which is the Gram Panchayat in question. Pursuant to the allegations made by the Petitioner in his complaint, an inquiry was conducted into the said allegations by a two member Committee amongst whom was the Chief Executive Officer of the Zilla Parishad, Kolhapur.

3 Suffice it would be to state that in the said inquiry report the Committee has reached a conclusion that there seems to be no substance in the allegation that there was a misappropriation of the amount without carrying out any work on the well. It is further recorded that it is not proved that no work in respect of strengthening and deepening of the well was carried out. The finding was that there was an irregularity in carrying out the works on the well in view of the fact that though the well was not within the jurisdiction of the Gram Panchayat in question, and in a private property still the works were carried out. It has come on record that there is a dispute as regards whether the well is on the land belonging to the Gram Panchayat or Gat No.135 which is a private property and belonging to one Smt. Suvarna Durge.

4 The said report was submitted to the State Government. The State Government in view of the finding recorded by the Committee as regards the discrepancy in respect of the ownership of the land on which the well is situated, appointed another Committee of two members consisting of an

independent Deputy Engineer viz. who is not concerned with the area in question and the Block Development Officer to go into the said aspect. The said Committee has referred to the factum of the dispute in respect of whether the well is situated in Gat No.135 belonging to the said Smt. Suvarna Durge or whether the entry made in Form No.25 was a forged and fabricated entry. The Committee has adverted to the Suit which is filed by the said Suvarna Durge against the Gram Panchayat which is a suit for injunction and in which an injunction, we are informed, has been granted in favour of the plaintiff i.e. the said Suvarna Durge. The Committee has therefore opined that until opinion is obtained in respect of the hand writing in the entry made in the said Form No.25 it would not be advisable to take action one way or the other.

5 In so far as the plot of land in question on which the well is situated is concerned, as indicated above, a Suit has been filed by the said Suvarna Durge which is pending. The fate of the allegations which the Petitioner seeks to make in respect of the funds which have been expended on the well in question would hinge upon whether the land on which the well is situated belongs to the Gram Panchayat or belongs to a private party i.e. the said Smt. Suvarna Durge.

6 In our view, it would, therefore, not be appropriate to entertain the above Writ Petition for the relief sought at this stage. We are fortified in

our approach by the fact that the Committee in question headed by the Chief Executive Officer, Zilla Parishad, Kolhapur has only found an irregularity in the matter of carrying out the improvements by way of strengthening and deepening of the well in question, but there is no finding that any misappropriation or defalcation of funds had taken place. Hence by granting liberty to the Petitioner to seek appropriate recourse after the suit in question which is pending in the Civil Court is decided, to approach the authorities for seeking implementation of the reports submitted by the earlier two member Committee and thereafter the second Committee, we dispose of the above Writ Petition.

Writ Petition disposed of.

[NITIN W. SAMBRE, J]

[R. M. SAVANT, J]