

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

WRIT PETITION NO. 3450 OF 2016

(Dadaji s/o Ganpat Dhule & Ors. vs. The State of Maharashtra thr. Secretary, Revenue and Forest 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 &
ARUN D. UPADHYE, JJ.
FEBRUARY 27, 2018.**

Heard Shri Amol Mardikar, learned counsel for the petitioners, Shri Amit Chutke, learned AGP for respondent Nos. 1, 3 & 4 and Shri M.I. Dhatrak, learned counsel for respondent No. 2.

2. The communication dated 22.04.2016 issued by the Chief Officer, Municipal Council, Bhadrawati, is questioned before this Court by total nine persons. The Chief Officer on behalf of the Municipal Council has pointed out that after removal of encroachment in 2009 and clearing of Shiv Rasta, the petitioners have again encroached and raised permanent structure.

3. The petitioners claim that their structures are not encroachment.

4. After orders of this Court dated 13.02.2017, the Municipal Council has placed on record an affidavit and a map. The affidavit is expressly filed on behalf of respondent No. 2 and in the affidavit, respondent No. 2 is described as the Chief Officer of Nagar Parishad. The map accompanying it is as per measurement conducted on 17.08.2006 and

19.08.2006. Thus, map drawn after 2009 is not being shown to this Court.

5. The petitioners also have not joined Municipal Council, Bhadrawati as party respondent. Instead of joining its Chief Officer, they have described the said officer as Chief Executive Officer. The petitioners have not shown any title document to land in dispute.

6. In this situation, it is apparent that the Municipal Council or its Chief Officer are not acting with due diligence. They appear to be interested in keeping the matter pending.

7. We, therefore, direct respondent No. 4 – Collector to inquire into the entire episode and to pass suitable orders, clearing Shiv road, if it is encroached in any way.

8. We direct the parties to appear before respondent No. 4 on 20.03.2018. The Collector shall, after perusal of records, pass suitable orders within next six weeks. Till then, the parties shall maintain status quo as on today.

9. Accordingly, writ petition is partly allowed and disposed of. However, there shall be no order as to costs.

JUDGE

JUDGE