

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

PUBLIC INTEREST LITIGATION NO.133 OF 2017
(MEGHRAJ PUNDLIK DONGARE WARDHA...VS..STATE OF MAHARASHTRA & OTH.)

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

Court's or Judge's orders

CORAM : B.P.DHARMADHIKARI AND
Z.A.HAQ, JJ.

DATED : JUNE 13, 2018.

1. Heard Shri R.S.Kurekar, learned counsel for the petitioner and Shri Neeraj Patil, learned A.G.P. for respondent Nos. 1 to 4. Nobody appears for respondent No.5-Municipal Council. Advocate Shri V.T.Deshpande for the respondent Nos. 6 to 12.

2. Facts show that the Municipal Council has sometime in January, 2016 cancelled permission to construct given to respondent Nos. 6 to 12 and therefore, the present petition has been filed with a grievance that those respondents have encroached upon the Government land.

3. Letter dated 21/01/2016 written by Municipal Council itself shows that permission for construction was given by the Municipal Council under the impression that the land belongs to it. Thus, at least while granting permission Municipal Council did not treat respondent Nos. 6 to 12 as encroachers. In a subsequent development the land is found not belonging to Municipal Council that too by Sub-Divisional Officer.

4. In these circumstances, the petitioner has to explain how the respondent Nos. 6 to 12 were initially placed in possession of their respective plots. That explanation and reply to relevant paragraphs are lacking.

However, from the communication dated 21/01/1966 accepted by Municipal Council, it appears that the State Government has not placed respondent Nos. 6 to 12 in possession and have not permitted them to construct.

5. In this Public Interest Litigation, therefore, we direct the respondent No.2-Collector to hold inquiry into the matter after giving parties necessary opportunity.

6. We direct parties to appear before the respondent No.2-Authority on 4th July, 2018 and abide by his further instructions in the matter.

7. The Collector shall complete the inquiry on or before 4th October, 2018.

8. Keeping all rival contentions open and with liberty to the parties to take such other steps as are available in law, we dispose of the Public Interest Litigation. No costs.

(Z.A.Haq, J)

(B.P.Dharmadhikari,J)