

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**7 WRIT PETITION NO. 3775 OF 2019
WITH CA/4792/2019 IN WP/3775/2019 WITH
WP/4619/2019**

BHAGWANRAO MADHAVRAO ALGAONKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner in WP/3775/2019 : Mr. Thombre S.S.

Advocate for Petitionrs in WP/4619/2019 : Ms. Yogita M.
Kshirsagar (Thorat)

AGP for Respondents : Mr. S.D. Ghayal

Advocate for Respondent Nos. 7 & 8 : Mr. P.R.
Katneshwarkar

Advocate for Respondent Nos. 4 & 5 : Mr. R.K. Ingole

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**CORAM : P.R. BORA, J.
DATED : 16th APRIL, 2019.**

PER COURT:-

. Heard the learned counsel for the parties.

2. The dispute is in respect of the allotment of one plot bearing no.1/6/43 (City Survey No.10162) ad-measuring approximately 4,800 sq.ft by Agriculture Produce Market Committee, Nanded (respondent no.4) to respondent nos. 7 and 8. It is the contention of the petitioner before this Court that said plot has been allotted to present respondent nos. 7 and 8 in utter violation of the rules and the procedures laid down for the said allotment. The petitioners have also alleged some malpractices in the allotment process. As against it, it is the contention of

respondent nos. 7 and 8 that the plot concerned has been transferred in their name after following the due process of law and after necessary payments were made in accordance with the rules and regulations framed in that regard under the APMC Acts and Rules. It is their further contention that after the said plot was transferred in their name, the construction plan was prepared and was got sanctioned by the municipal council. It is further submitted that APMC has given no objection to the said building plan.

3. Civil Application No.4792 of 2019 is filed by Shri Vishnupant Madhavrao Udgirkar and one another seeking intervention in the matter. Shri More, the learned counsel appearing for the applicants in the said application submitted that though Madhavrao Udgirkar, the father of applicant no.1 Vishnupant is shown to have been allotted the subject plot, according to his information no such plot was ever allotted to said Madhavrao. The learned counsel further contended that a false recovery was shown of Rs.7,00,000/- towards deceased Madhavrao and on that pretext, signatures were obtained of Vishnupant and his brother on one stamp paper and the same has been misused thereafter.

4. In the aforesaid circumstances, a complaint was

made to the DDR, Nanded. Initially vide order passed on 11.02.2019, the DDR directed the enquiry into the matter and appointed Deputy Registrar Co-operative Societies to conduct such enquiry and the report was directed to be submitted immediately. The DDR, Nanded subsequently on 14.02.2019 passed a further order and thereby stopped the construction being carried out by respondent nos. 7 and 8 till the report of enquiry is received. Respondent nos.7 and 8 challenged the said order by filing an appeal before the Director of Marketing and the Director of Marketing on 14.03.2019 passed the impugned order whereby, he has stayed the order passed by the DDR on 14.02.2019. Aggrieved by, the petitioner has preferred the present writ petition.

5. After having extensively heard the arguments of the learned counsel appearing for the parties, it is revealed that several disputed facts are involved in the matter. The allegations and counter allegations are made. The matter is yet to be finally heard and decided by the Director of Marketing. Similarly, the report of the enquiry officer appointed by DDR is yet to come. In the circumstances, it would be premature to make any comment as about the merits of the contentions raised by the parties. The

documents which are placed on record, in fact make out prima facie case for both the parties. In the circumstances, it appears to me that without going into the merits of the rival contentions raised by the parties, the following order can be passed which would meet the ends of justice:

ORDER

- i) It is directed that the petitioner in the present writ petition as well as the applicants in Civil Application No.4792 of 2019 be added as respondents in the appeal pending before respondent no.2.
- ii) Respondent no.2 shall by giving due opportunity of hearing to the appellant as well the respondents shall decide the appeal before him on merits and in accordance with law, as expeditiously as possible preferably within a period of three weeks.
- iii) The petitioner in the present petition and the applicants in Civil Application No.4792 of 2019 shall cause their appearance before respondent no.2 on 22.04.2019, which is the next date fixed in the appeal before the said authority. Needless to state that, respondent no.7 and 8 as well as APMC, Nanded and DDR, Nanded would also remain present before respondent no.2 on the said date, so that if it is convenient for respondent no.2, the appeal can be heard

by him immediately.

iv) Till decision of the appeal by respondent no.2, respondent nos. 7 and 8 shall not carry out any further construction on the disputed plot.

v) It is clarified that this Court has not gone into the merits of the rival contentions raised by the parties and has not expressed any opinion.

vi) With this, the present writ petition stands disposed of.

vii) In view of the order passed in Writ Petition No.3775 of 2019, Writ Petition No.4619 of 2019 and Civil Application No.4792 of 2019 stand disposed of.

(P.R. BORA, J.)

Mujaheed//