

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

Writ Petition No.2744 of 2018

Ishwar s/o Husan Kumare

vs.

The State of Maharashtra, through its Secretary, Rural Development, Mumbai & others

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

*Shri D.P. Thakre, A.G.P. for Respondent Nos.1 to 3.
Shri M.P. Khajanchi, Advocate for Respondent No.4.
Shri Raja Dandwate, Advocate for Respondent No.5.*

CORAM : S.B. SHUKRE & S.M. MODAK, JJ.

DATE : 22nd JANUARY, 2019.

Nobody is present for the petitioner. We have gone through the averments made in the petition and also its prayer clauses. We have heard the learned Assistant Government Pleader for respondent Nos.1 to 3, Shri M.P. Khajanchi, learned Counsel for respondent No.4 and Shri Raja Dandwate, learned Counsel for respondent No.5.

Our attention has been invited to the documents placed on record by the petitioner in support of his contention that respondent No.5 has made an encroachment upon the government land, which is necessary to be removed in discharge of the official duty as well as public functions by respondent

Nos.2 to 4. These documents show that the owner of the property is one Diwakar Dandwate. However, Diwakar Dandwate has not been joined as a party to this petition. In his place, respondent No.5 Smt. Shalu Diwakar Dandwate has been made respondent in this petition. It is the contention of the learned Counsel for respondent No.5 that she has been made a party to this petition in order to ruin her reputation as President of the Municipal Council, Desaiganj (Wadsa). We find at this stage that the contention cannot be ignored. There is no reason provided by the petitioner as to why the owner Diwakar Dandwate has not been joined as party-respondent and why Shalu Diwakar Dandwate has been joined as party-respondent.

Be that as it may, it has been pointed out to us by the learned Counsel for respondent No.4 that the petitioner has no *locus standi* in this case and the petition as filed by the petitioner appears to be having some different agenda, which could not be said to be in the larger public interest.

He submits that the cause title of the petition would suggest that the petitioner is an ordinary resident of Kasturba Ward, Desaiganj (Wadsa), Tahsil Wadsa, District Gadchiroli, whereas,

the prayer clause (i) shows that the property made by encroaching upon the government land is situated at Survey No.103 Virshi-Tukum within the territorial jurisdiction of Nagar Parishad Desaiganj. Respondent No.4 has filed a reply on affidavit stating on oath that the localities Kasturba Ward and Virshi-Tukum, are separated by, not a shorter distance, but a longer distance. It appears to us that the local residents of Virshi-Tukum are not up in the protest against the alleged encroachment or otherwise and they would have come out openly in public. The petitioner has also not stated or averred in the petition that for some reason, the local residents of Virshi-Tukum are afraid to take up this case in larger public interest.

Discussions thus far made would make it reasonably clear that this petition is bad in law and, therefore, not maintainable before this Court.

The petition stands dismissed with costs, which are quantified to be at Rs.5,000/- (Rupees Five Thousand Only).

JUDGE

JUDGE