

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

WRIT PETITION NO. 1535 OF 2020

Mirabai Panditrao Katad Patil

..Petitioner

V/s.

The State of Maharashtra
Through Principal Secretary,
Rural Development & Ors.

..Respondents

Mr.Stayajeet P. Dighe for the Petitioner.

Mr.Y.D. Patil, AGP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 04th MARCH 2020

P.C.

1. Heard learned counsel for the petitioner.

2. The challenge in this petition is to the order dated 10th May 2018 passed by the learned Collector, Nashik in Gram Panchayat Dispute Application No.60 of 2018.

3. By the impugned order the petitioner has been held to be disqualified to be a member of Gram Panchayat Matori, under Section 14(1)(j-3) of the Maharashtra Village Panchayat Act, 1958, for having encroached on the government land. That order has

been confirmed by the learned Additional Commissioner, Nashik in Appeal No.47 of 2018, on 07th January 2020.

4. A perusal of the record shows that the authorities below have found that Gram Panchayat property bearing No.676 is shown to be owned by the State Government in which the petitioner is shown to be an occupant. The petitioner has constructed a structure thereon admeasuring 12 x 40 feet in bricks and cement. The Appellate Authority has noticed that in the record of rights (Form No.8) relating to the said property it is mentioned that the said entry is subject to the outcome of the proposal for regularization of the construction, which was pending before the learned Collector, Nashik.

5. The learned counsel for the petitioner has placed reliance on the decree passed by the Competent Civil Court in Regular Civil Suit No.582 of 1999 on 27th September 2012. The Appellate Authority has found that the said decree has no relevance insofar as the issue of disqualification is concerned. A bare perusal of the said judgment and decree shows that it was a case of the petitioner herself that the suit property was belonging to the State Government and that the petitioner has erected a shed in the suit

property for carrying out the business of welding and fabrication under the name and style as 'Meera Patil Engineering Works'. The suit challenges a notice dated 10th August 1999 issued by the Section Officer, Alandi, Makhmalabad, Taluka-District-Nashik and all that the Civil Court has held is that the said notice is not binding on the petitioner and her husband. It is difficult to see as to how the said decree can come to the aid of the petitioner in this case. Once the Appellate Authority has found that the application for regularization filed by the petitioner is pending, it presupposes that the construction is irregular/unauthorized. Thus, no exception can be taken to the impugned orders passed by the authorities below. The petition is without any merit and it is accordingly dismissed, with no order as to costs.

Nilam
Kamble

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by Nilam Kamble
Date: 2020.03.06
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C.V. BHADANG, J.