

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

WRIT PETITION NO.4903/2017

Adarsh Panchvati Park Vasahat Vikas Samiti, Nagpur

..V/s..

State of Maharashtra and others

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

Court's or Judge's orders

Shri S.G. Karmarkar, Advocate for the petitioner.
Shri H.D. Dubey, A.G.P. for respondent Nos.1 to 4, 6 to 11.
Shri R.M. Wasnik, Advocate for respondent No.5.
Ms Anita Bondre, Advocate for respondent No.12.
Shri S.G. Jagtap, Advocate for respondent No.13.
Shri P.K. Sathianathan, Advocate for respondent No.14.

CORAM : RAVINDRA V. GHUGE & S.M. MODAK, JJ.
DATED : 12.2.2020.

1] We find that the impugned order is passed by the Tahsildar, Hingna under Section 143 of the Maharashtra Land Revenue Code, thereby granting a road to the complainants.

2] We find that the petitioner has a statutory and efficacious remedy considering Schedule E to Section 247 of the Maharashtra Land Revenue Code. The Hon'ble Apex Court has recently laid down in the matter of *Virudhunagar Hindu Nadargal Dharma Paribalana Sabai V/s. Tuticorin Educational Society* (2019 SCC Online SC 1292) in Civil Appeal No.8945/2019 vide order dated 22/11/2019 and in the matter of *Genpact India Private Limited V/s. Deputy Commissioner of Income Tax*, Civil Appeal No.8945/2019, dated 22/11/2019, that the writ

jurisdiction of the High Court under its supervisory jurisdiction and Article 227 of the Constitution of India, suffers a “*near total bar*”. It has also held that if a petition is admitted and the statutory remedy is available, an admitted petition can be dismissed and the parties can be relegated to the statutory remedy.

3] The learned Advocate for the petitioner submits that the petitioner would resort to a remedy as is permissible under Schedule E to Section 247 of the Maharashtra Land Revenue Code and the time spent by the petitioner in this Court may be excused.

4] Considering the above, this petition is **disposed off** with liberty to the petitioner to avail of the remedy as is permissible in law.

5] Time spent by the petitioner in this Court from 6.5.2017 till the passing of this order, would be a good ground for condonation of delay, if any. It is made clear that no interim relief has been granted to the petitioner.

(S.M. MODAK, J.)

(RAVINDRA V. GHUGE, J.)