IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5584 OF 2020

1) Kishor Vishwas Patil,
R/o. Dangune, Tq. Sindkheda,
District Dhule.

2) Jitendra Vishwan Patil,
R/o. Dangune, Tq. Sindkheda,
Dist. Dhule,
Through : their power of Attorney
Holder :
Shri. Yogesh Aatmaram Bagad,
Age 42 years, Occ. Agri/Business.
R/o. Gut No. 6, Dhule, Tq.
& Dist. Dhule.

VERSUS.

1) The State of Maharashtra
Through its Principal Secretary,
Revenue and Forest Department,
Mantralaya Mumbai – 32.

2) Additional Commissioner,
Nashik Division, Nashik.

3) The Collector, Dhule,
Tq. & Dist. Dhule.

4) Tahsildar, Shindkheda,
Tq. Sindkheda, Dist. Dhule.

5) Circle Officer, Shindkheda,
Tq. Sindkheda, Dist. Dhule.

6) Talathi, Shindkheda,
Tq. Sindkheda, Dist. Dhule.

7) Ravindra Subhash Patil,
Age Major, Occ. Agriculture,
R/o. Betavad, Tq. Sindkheda,
Dist. Dhule.

8) Prashant Chandrakant Patil,
Age Major, Occ. Agriculture,
R/o. Plot No. 6, Oswal Nagar,
Vidyanagari, near Satpuda

High School, Deopur, Tq. &
Dist. Dhule.

9) Subhash Nathu Koli,
Age Major, Occ. Agriculture,
R/o. Near Vitthal Temple,
Betavad, Tq. Sindkheda,
Dist. Dhule. ... **Respondents.**

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Advocate for the Petitioners : Mr. Bagul D.S.
A.G.P. for the respondent Nos. 1 to 6 : Mrs. D.S. Jape.
Advocate for the Respondents No. 7 & 8 : Mr. Desale.
Advocate for the Respondent No. 9 : Mr. Manish V. Bhamre. (absent)

CORAM : MANGESH S. PATIL, J.

DATE : 07.01.2021.

ORAL JUDGMENT :

Heard. Rule. The Rule is made returnable forthwith. With the consent of both the sides the matter is heard finally at the stage of admission.

2. The order rejecting regularization of an encroachment under Section 49 read with Section 51 of the Maharashtra Land Revenue Code, 1966 passed by the concerned Tahsildar was impugned. The learned Minister while entertaining the revision under Section 257 of the Maharashtra Land Revenue Code, 1966 by the order dated 18.06.2019 quashed and set side the order of the Tahsildar and that of the Commissioner and allowed the request regarding regularization of the encroachment.

3. By the impugned order, the execution and operation of the earlier order dated 18.06.2019 passed by the predecessor of the sitting Minister has been stayed. Hence this petition.

4. After having heard both the sides it appears that it is a matter of some error or mistake arising out of the fact that it is not only the petitioners but one more person who is the petitioner in Writ Petition No. 6560/2020 had filed a joint revision under Section 257 of the Maharashtra Land Revenue Code before the State Government. Apparently they were seeking regularization of their individual encroachment on the lands situated in two different villages.

5. As is stated herein above the order dated 18.06.2019 had the effect of allowing both the proceedings, one initiated by the present petitioners and the other by the petitioner in Writ Petition No. 6560/2020.

6. It also appears that the respondent Nos. 8 and 9 herein applied for review under Section 258 of the Maharashtra Land Revenue Code and by the impugned order, without adverting to the specific allegations of the respondent Nos. 8 and 9 questioning regularization of encroachment by the petitioner in Writ Petition No. 6560/2020 alone, the learned Minister has stayed the operation of the entire order dated 18.06.2019, which has the consequence of staying the order of regularization qua the present petitioners as well albeit the respondent Nos. 8 and 9 were not questioning regularization of the encroachment made by the present petitioners. It also can be discerned from the Review Petition filed by the respondent Nos. 8 and 9 before the Minister. Same thing has been reiterated by them in their affidavit in reply filed in this petition.

7. It is under these circumstances, the impugned order to the extent it has the effect of staying the operation of the order dated 18.06.2019 to the extent of the petitioners deserves to be quashed and set aside.

8. The Writ Petition is allowed. The impugned order to the extent of the petitioners' claim regarding regularization of encroachment to the extent of 2-Hectre from land Gat No. 13 of village Dangune Tq. Shindkheda, Dist. Dhule, is quashed and set aside.

9. The Rule is made absolute accordingly.

(MANGESH S. PATIL, J.)

mkd/-