

ISM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4611 OF 2021

SHRI. RAVASO PRABHU PATIL AND ORS

....PETITIONERS

V/s.

SHRI. BALASO PARISA PATIL AND ORS

...RESPONDENTS

Mr. Sandeep S. Koregave for the petitioners

Mr. N. J. Patil i/b Akshay N. Patil for respondent nos. 1 to 3

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 25, 2021.

P.C.:

1] In view of absence of pleadings on behalf of petitioner which is pre-requirement under Section 52(1A) of Maharashtra Village Panchayat Act i.e. absence of pleadings about existence of draft regional plan or final regional plan, in my opinion, order impugned passed by the Court below does not call for any interference, as gram panchayat has every authority in such an eventuality to decide the claim for granting permission to carry out construction.

2] Apart from above, in compliance with the order of this Court, measurement report placed on record speaks otherwise i.e. alleged encroachment carried out by the petitioner himself.

3] Though learned counsel for the petitioner has claimed that respondent has carried out construction in contravention to sanction by Village Panchayat, however, in my opinion, said issue cannot be considered against the respondent-defendant in view of measurement plan placed on record by the Revenue authority. Such an issue can be dealt with at the final stage of the suit.

4] In that view of the matter, no case for interfere is made out. Petition fails, stands dismissed.

5] Observations made herein above are restricted to prayer canvassed before this Court and same shall not prejudice rights of the parties while deciding the suit on merit.

6] Learned counsel for the petitioner submits that construction carried out by the respondent-defendant, if any, contrary to sanction plan shall made subject to outcome of the suit.

7] I do not see any legal impediment in accepting the same. It is accordingly ordered that construction carried out, if any, in deviation to the sanction plan shall always be subject to final outcome in the suit.

[NITIN W. SAMBRE, J.]