

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

WRIT PETITION NO.4844 OF 2021

Vinod s/o Mahadev Madavi

Vs.

The Divisional Commissioner, Nagpur Division and others

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

Court's or Judge's orders

Mrs. R. S. Sirpurkar, Advocate for petitioner.

Ms. H. N. Jaipurkar, AGP for respondent Nos.1 to 3.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/12/2021

Heard Mrs. Sirpurkar, learned counsel for petitioner and Ms. Jaipurkar, learned AGP for respondent Nos.1 to 3. None present for the respondent No.4, though served.

In pursuance to what has been recorded in the order dated 29.11.2021, learned AGP Ms. Jaipurkar, on instructions, submits that the construction in which the petitioner is residing, in respect of which a finding of encroachment has been rendered, by the authorities below, has been made by the Gram Panchayat, Kurud, and allotted to the petitioner's father for his residence. The finding rendered by the authorities below therefore cannot be sustained, as the sole ground for disqualifying the petitioner was that the petitioner had encroached on government land. Since the agreement dated 17.11.1987 speaks about the allotment of the land to the father of the petitioner and the statement by the learned AGP

speaks about the construction by the Gram Panchayat, it is clearly apparent, that the petitioner has no role to play in the construction altogether, considering which, the finding regarding encroachment and illegal construction cannot be sustained. In view of this position, the order dated 01.07.2021 passed by the respondent no.2 and the order dated 02.11.2021 passed by the respondent no.1, which do not take into consideration the above position, are hereby quashed and set aside. The writ petition is accordingly allowed in the above terms. No costs.

Steno copy of this order is granted.

JUDGE

Sarkate