

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.4789 OF 2021

DNYANDEV RAMAJI GHULE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioners : Mr. Santosh Bhosle
AGP for Respondents No. 1 to 3: Mr. Y.G. Gujarathi
Advocate for Respondents No. 5: Mr. V.S. Bedre

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 7th JUNE, 2022

ORDER :

1. By filing Village Panchayat Dispute Application No. 32/2019, under section 14(J) of Maharashtra Village Panchayat Act, 1959, the petitioners sought disqualification of respondent No. 5 from the post of Sarpanch and member of village panchayat, Gopalpur, Taluka- Newasa, District-Ahmednagar, on the ground that she has encroached on the government land. The Collector after hearing the parties rejected the dispute. The petitioners challenged the order of the Collector before the Commissioner. The Commissioner remanded the matter back to the Collector. After remand the matter was renumbered as Village Panchayat Re-inquiry No. 22/2020. The Collector after obtaining report of Tahsildar, land record authorities and Sub

Divisional Officer dismissed the dispute filed by the petitioners. The order of the Collector is confirmed by the Commissioner in appeal. Hence, the present petition.

2. Heard the learned advocate for petitioners, learned advocate for Respondent No. 5 and learned Assistant Government Pleader for the State.

3. The record reveals that while dismissing the dispute the Collector has taken into consideration the report of physical inspection of the alleged encroachment submitted by the Sub Divisional Officer. The physical inspection was conducted on 04.12.2019, at that time Mr. Satish Aagle and Mr. Pramod Aagle were found cultivating the alleged encroached land. They confirmed that they are cultivating the said land since beginning. The report of measurement and fixing of boundaries by officers of the land record is also a part of record. It is stated in the said report that the said land is government acquired land Mr. Satish Aagle and Mr Pramod Aagle were found cultivating the said property. Accordingly, notice for encroachment was issued to them. For the encroachment on the government land a criminal complaint is also lodged against them at Newasa police station

on 01.07.2020.

4. After considering these documents, the Collector has drawn a conclusion that it is a fact that respondent No. 5 owns 0.07R land in survey no. 2/2. Presently 1 Hectare 47R area is mentioned on 7/12 extract of survey no. 2/2. A revision is pending about the increased area of 1 Hectare 40R of the petitioner. Tahsildar, Newasa, has submitted a report that said increased area is only on paper. At the time of measurement and fixing of boundaries it is not proved that respondent No. 5 has encroached on the government land.

5. The findings of fact recorded by the Collector is on the basis of material available on record and hence is acceptable. The Collector is justified in dismissing the dispute filed by the petitioners. The Commissioner by a reasoned order has confirmed the decision of the Collector.

6. Both the authorities have recorded concurrent findings of fact on the basis of record available before them. There is no illegality or perversity in the orders impugned in the present petition. No case is made out to warrant interference in

the extraordinary writ jurisdiction. The writ petition being devoid of merits, is dismissed. No costs.

[NITIN B. SURYAWANSHI]
JUDGE