

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5217 OF 2022

Anilkumar S/o Topandas Dhameja,
Aged 50 years, Occ. Business,
R/o Gurudeo Chowk, Sindewahi,
Tq. Sindewahi, District Chandrapur – 441222.

PETITIONER

.....VERSUS.....

1. The Collector,
Collector Office, Chandrapur,
Tq. & District Chandrapur.
2. The Tehsildar, Sindewahi,
Tq. Sindewahi, District Chandrapur.

RESPONDENTS

Shri P.R. Agrawal with Shri A.S. Ambatkar, Advocate for the petitioner.
Ms. S.S. Jachak, Assistant Government Pleader for the respondents/ State.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI - PHALKE, JJ.

DATE : 26/8/2022

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned counsel for the parties.

2. The learned Assistant Government Pleader waives notice for the respondents.

3. The petitioner is aggrieved by the order dated 22/8/2022 passed by the Tahsildar in exercise of powers under Section 50(2) of the

Maharashtra Land Revenue Code, 1966 (for short “the Code”). By that order, the petitioner has been directed to remove the encroachment standing on 0.03 R land of property No. 293 situated at Mouza – Lonwahi, Tq. Sindewahi, Dist. Chandrapur.

4. It is submitted by the learned Counsel for the petitioner that the impugned order was received by the petitioner in the evening hours on 24/8/2022. It is apprehended that since this period of three days as per that order has expired, the action stated therein would be immediately taken and he therefore prays that the correctness of the impugned order be examined.

5. We find that under the provisions of Section 50(5) of the Code, remedy by way of an Appeal and Revision is available to a party aggrieved by an order passed under Section 50(2) of the Code. We are therefore inclined to religate the petitioner to avail such statutory remedy. We however see that in the impugned order, time of three days has been granted to remove the encroachment as alleged. In that view of the matter, the following order is passed :

i. The petitioner is at liberty to challenge the order dated 22/8/2022 passed under Section 50(2) of the Code by availing the

statutory remedy therein. The time to remove the encroachment as mentioned in the impugned order is extended for a further period of ten days from today. If the petitioner avails the statutory remedy, the proceedings shall be decided on their own merits and in accordance with law.

ii. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI - PHALKE, J.)

(A.S. CHANDURKAR, J.)

SUMIT