

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

WRIT PETITION NO.6016/2022

Nilesh Kisan Chavhan and another
...Versus...
Sunil Jagdev Rathod and others

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

Court's or Judge's orders

Shri V.N. Morande, Advocate for petitioners
Shri H.R. Gadhia, Advocate for respondent nos.1 and 2
Mrs. Shamsi Haider, AGP for respondent nos.3 and 4

CORAM : AVINASH G. GHAROTE, J.

DATE : 03/10/2022

1. Shri Morande, learned counsel for the petitioners at the outset seeks to delete the name of respondent no.5.
2. Statement is accepted. The name of respondent no.5 be deleted from the array of respondents. Amendment be carried out forthwith.
3. Heard Shri Morande, learned counsel for the petitioners, Shri Gadhia, learned counsel for the respondent nos.1 and 2 and Mrs. Haider, learned Assistant government Pleader for the respondent nos.3 and 4. One of the grounds raised is that the spot inspection report dated 29/06/2022 (pg.73) on the basis of which the impugned orders have been

passed was without the presence of the petitioners and therefore cannot be sustained.

4. Shri Gadhia, learned counsel for the respondent nos.1 and 2 disagrees with the same. However, on a query being made as to demonstrate either from the order-sheets or from the spot inspection report dated 29/06/2022 the presence of the petitioners while conducting the aforesaid spot inspection, he is unable to do so.

5. A perusal of the spot inspection report dated 29/06/2022 does not indicate that the same has been signed by the petitioners. The order-sheet dated 29/06/2022, which records that the spot inspection was done in presence of the petitioners is also not signed by them, as against which, the earlier order-sheets indicate their signatures and thumb impressions. It is, thus, apparent that there is nothing on record to indicate that the spot inspection dated 29/06/2022 by the Naib Tahsildar was done in the presence of the petitioners, considering which, the impugned orders which are based upon the spot inspection report cannot be sustained. The same are hereby quashed and set aside and the matter is remitted back to the learned Mamlatdar to conduct a fresh spot inspection in the presence of the parties by recording their presence and then pass appropriate orders. In view of the above, other grounds are not being gone into.

6. The writ petition is partly allowed in the above terms and disposed of accordingly. No order as to costs.

(AVINASH G. GHAROTE, J.)

Wadkar