

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

919 WRIT PETITION NO. 12978 OF 2022

**MALHARI VITTHAL BALLOD
VERSUS
THE ADDITIONAL DIVISIONAL COMMISSIONER
AURANGABAD & OTHERS**

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Advocate for the petitioner : Mr.U.B.Deshmukh
AGP for Respondent-State : Mr.K.B.Jadhavar
Advocate for Respondent no.4 : Mr.Ganesh V. Sukale
Advocate for respondent no.5 : Adv. Yogita S. Thorat

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**CORAM : ARUN R. PEDNEKER, J.
DATE : 09.02.2023**

P.C. :

- 1] Heard the learned counsel for the parties.
- 2] The petitioner and the respondent no. 4 were elected as members of the Village Panchayat, Borgaon [Nadhari]. On the complaint made by the husband of the respondent no.4, the proceedings were initiated under Section 14 (1) (j-3) of the Maharashtra Village Panchayat Act against the petitioner, alleging therein that the

petitioner has encroached upon the Government land. Thereafter, the petitioner has filed dispute before the Collector, Nanded on 07.10.2021 alleging therein that the respondent no.4 has encroached upon the public land, and therefore, the petitioner prayed that the respondent no.4 be declared as disqualified to act as a member of the village panchayat. In the said proceedings, the report is called from the Block Development Officer. Thereafter, the Block Development Officer has visited the said village and prepared panchnama and submitted his report in the said proceedings. In the said report, it was pointed out that the respondent no. 4 has encroached 0.63 square feet beyond the land owned by the respondent no.4. After receipt of the report of the Block Development Officer, the Collector has dismissed the dispute filed by the petitioner.

3] Being aggrieved by the said order, the petitioner preferred an appeal before the Additional Divisional Commissioner, Aurangabad Division, Aurangabad and the Additional Divisional Commissioner has confirmed the said

order. The petitioner, thereafter, filed the present Writ Petition challenging the orders passed by the authorities below.

4] Heard the learned counsel for the parties. Perused the impugned judgments and orders passed by the authorities below and the report of the Block Development Officer. After receipt of the report of Block Development Officer, it was found that the respondent no.4 has encroached 0.63 square feet beyond the land owned by the respondent no.4. The Collector, on considering the material, held that there is no encroachment and the Collector has concluded that there is no deliberate encroachment as the same is 0.63 square feet. The Collector has held in the impugned order that possibility of meager encroachment at the time of construction of house is not ruled out and the order of the Collector has also confirmed by the Additional Divisional Commissioner, Aurangabad.

5] I do not see any error in the impugned orders passed by the authorities below. The alleged encroachment

is so minor and can be possibly done for the various reasons including faulty measurement. Also the encroachment is not proved to be on government land. I am not remitting the matter to find out if the alleged encroachment is on a public land as the same is extremely small and as stated above can be for faulty measurement. Thus, this Court would not invoke its writ jurisdiction to interfere in the orders passed by the authorities below.

6] In view of the above, the Writ Petition is dismissed.

[ARUN R. PEDNEKER]
JUDGE

DDC