

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

938 WRIT PETITION NO.1331 OF 2018

**RAMESH PRABHAKAR KHARDEKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Petitioner : Mr. Godbharle Vinod D.
AGP for Respondents/State: Mr. S. B. Yawalkar
Advocate for Respondent No.3: Mr. B. N. Patil
Advocate for Respondent No.4: Mr. T. M. Venjane

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**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

DATE : 28.03.2023

PER COURT :

1. We have heard the learned counsel Mr. Godbharle for the petitioner.
2. According to him, the shop No.43 was allotted in his favour by the respondent/APMC which he has permitted the respondent No.4 to occupy temporarily. According to Mr. Godbharle, already a suit for recovery of amount is pending before the Competent Civil Court against respondent No.4.
3. He would urge that the respondent/APMC has illegally transferred the aforesaid shop and the mutation is effected in favour of respondent no.4 without there being any inquiry or opportunity to the petitioner.
4. Learned counsel for respondents would oppose the aforesaid prayer. As according to learned counsel for the respondent/APMC, the issue was sub-judice before this Court in writ petition. It is further claimed that respondent/APMC has kept itself away from deciding the issue in view of the matter being sub-judice as referred above.

5. The fact remains that the petition preferred by respondent No.4 is already disposed of by this Court vide order dated 28th March, 2023.

6. Apart from above, whether the mutation in favour of respondent No.4 is legally valid, it can be looked into by the Competent Authority under the the Maharashtra Agricultural Produce Marketing (Development & Regulation) Act, 1963 and the regulations framed thereunder. Apart from above, having perused the communication dated 19th October, 2016, we are of the view that the petitioner can take recourse to the alternate remedy via the issues which are claimed in the petition. In that view, we refrain ourselves from entertaining the petition or causing any interference in the writ jurisdiction. The writ petition stands disposed of.

7. However, the petitioner shall be at liberty to take recourse to alternate remedy as shall be advisable.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

Sameer