

Talwalkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5555 OF 2023

Deepak Narayan Bagate

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Mr Jayendra Khairnar, with Shraddha Kadam, for the Petitioner.

Mr SL Babar, AGP, for Respondent Nos 1 to 3-State.

Mr Sanjiv Sawant, with Abhishek Deshmukh & Digvijay Palande, for the Respondent No. 5.

**CORAM G.S. Patel &
 Kamal Khata, JJ.**

DATED: 4th September 2023

PC:-

1. This Petition raises a serious disputed question of fact as to the title regarding the very basis of the Petition apart from the fact there is no infirmity demonstrated in regard to the impugned order dated 28 October 2022 passed by the Additional Commissioner, Pune Division, Pune in Gram Panchayat Appeal No. 26 of 2022. By that order, the Additional Commissioner correctly rejected the appeal filed by the Petitioner against the judgment and order of 23rd July 2022 of the District Collector, Pune in Gram Panchayat Dispute Application No. 105 of 2021.

2. In our view, that whole Gram Panchayat Application was probably mischievous and was almost certainly misconceived. This is clear from paragraphs 4, 5 and 6 of the present Petition itself which read as follows::

4) The Petitioner further states that as per the provisions of Section 14(1)(g) of the said Act, no person shall be member of panchayat and continue as such, who has directly or indirectly, by himself or his partner, any share of interest in any work done by order of the panchayat or in any contract with, by or on behalf of, or employment with or under the panchayat. **It would not be out of place to mention here that admittedly the Respondent No. 5 is running a shop of hardware and building material, who supplied material for village panchayat work.**

5) The Petitioner further states that the gram panchayat Plot No 815 property No. 602/8, is in the name of mother of the Respondent No. 5 Nanda Shivaji Wable, without any title and valid documents in relation of the same and have encroached on the property of Gram Panchayat. The Respondent No. 5 has cheated by not mentioning the same in his affidavit of nomination at the time of election.

6) The Petitioner further states that the shop viz. “Shri. Samarth Sales Corporation and Hardware Material” is owned by the Respondent No. 5 and his father Mr. Shivaji Wable and they collect the goods and services taxes on the good sold from the said shop and have mentioned it as nothing in the declaration form. They are also cheating the state government by evading taxes. The Respondent No.5 as a member of gram panchayat has secured his personal interest in the property of Gram panchayat and misused his position.

(Emphasis added)

3. It is therefore not an admitted position that the property in question is in fact Gram Panchayat property. The entire Petition appears prima facie to be a private dispute. The invocation of Section 14(1)(j-3) of the Maharashtra Village Panchayats Act, 1959 is completely erroneous and misconceived.

4. There is no substance to the Petition. The Petition is rejected. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)