

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3971 OF 2023

Vitthal Rajaram Shitole

Age: 52 years Occ: Agriculturist,

Residing at Post Koregaonmul, Taluka Haveli,

District- Pune.

.. Petitioner

Vs.

1. The Collector, Pune,

Having his office at New Collector

Office Building, Opp. Sasoon Hospital,

Station Road, Pune - 411 001.

2. The Tahsildar, Taluka Haveli,

District Pune, Having address at

Shukrawar Peth, Khadak Mal,

Ali, Pune - 411 002.

3. Gram Vikas Adhikari,

Gram Panchayat Koregaonmul,

Taluka Haveli, District - Pune.

4. Bhanudas Khanderao Jedhe

Age: 44 yrs, Occ: Agriculturist,

5. Bapusaheb Yashwant Bodhe

Age: 68 yrs, Occ: Agriculturist,

6. Leelavai Bapusaheb Bodhe
Age: 67 yrs, Occ: Agriculturist,
7. Vaishali Amit Sawant,
Age: 40 yrs, Occ: Housewife,
8. Ashwini Chintamani Gadh
Age: 36 yrs, Occ: Housewife,
9. Sachin Gulab Nikalje
Age: 35 yrs, Occ: Agriculturist,
10. Mangal Jagannath Pawar
Age: 40 yrs, Occ: Housewife,
11. Radhika Santosh Kakade
Age: 39 yrs, Occ: Housewife,
12. Mangesh Ashok Kankate,
Age: 28 yrs, Occ: Agriculturist,
13. Pallavi Ramesh Nazirkar
Age: 35 yrs, Occ. Agriculturist,
14. Dattatraya Dnyaneshwar Kakade
Age: 35 yrs, Occ.: Agriculturist,
15. Manisha Nandakishore Kad

Age: 42 yrs, Occ: Agriculturist,
Respondent Nos. 4 to 15 are
residing at Post Koregaonmul, Taluka Haveli,
District: Pune - 412 202.

16. The Talathi, Koregaonmul, Taluka Haveli,
District: Pune.

17. State of Maharashtra .. Respondents

Ms. Sneha Bhangе h/f. Mr. C. B. Nikte for the Petitioner.
Mr. N. K. Rajpurohit, AGP for the State.
Dr. U. P. Warunjikar a/w. Ms. Neha G. Deshpande i/b. Mr. Aadesh
Konde Deshmukh for Respondent Nos. 4 to 13.
Mr. Sumedh Ruikar for Respondent No.3.
Mr. Prajit S. Sahane, for Respondent Nos. 14 and 15.

**CORAM:- R.D. DHANUKA &
GAURI GODSE, JJ.**

DATE :- 03 APRIL, 2023.

ORAL JUDGMENT: (PER : - R. D. DHANUKA, J)

1. Matter is on board and mentioned out of turn.
2. Rule. Learned counsel for the Respondents waive service. Rule made returnable forthwith. Heard finally by consent of the parties.

3. This matter was on board on 30th March, 2023, when this Court recorded the no objection of the Petitioner and Respondent Nos. 4 to 13 to quash and set aside the impugned order by consent of the parties passed by the Collector and remand the matter back to the Collector for deciding the dispute filed by the Petitioner in accordance with law. Since the Respondent Nos. 3, 14 and 15 were not present earlier, this Court could not dispose of the Petition.

4. Respondent Nos. 3, 14 and 15 today appeared through their respective counsel and recorded similar no objection which was recorded between the Petitioner and Respondent Nos. 4 to 13. Statement is accepted.

5. All the parties are agreeable for quashing and setting aside the order passed by the Collector and for remanding the dispute filed by the Petitioner before the Collector, hence we pass the following order:

ORDER

- (i) The impugned order dated 23rd March, 2023 passed by the Respondent No.1 Collector in Dispute

Application No. 32 of 2023, is quashed and set aside;

- (ii) The dispute filed by the Petitioner before the Respondent No.1 Collector i.e. Dispute Application No. 32 of 2023 be restored to file;
- (iii) The Collector to pass fresh order in the said dispute after hearing the parties within four weeks from the date of granting personal hearing;
- (iv) The parties are directed to remain present before the Respondent No.1-Collector on 12th April, 2023 at 11.00. a.m;
- (vi) The Collector to pass an order in the said dispute Application on its own merits and in accordance with law and without being influenced by impugned order dated 23rd March, 2023 passed by the Respondent No.1-Collector;
- (vii) If the order passed by Respondent No.1-Collector is adverse against any of the parties, the order shall not be implemented for a period of one week;

- (viii) It is made clear that if any adverse order is passed against the Petitioner or any parties supporting the Petitioner, fresh Election shall not be held without complying the mandatory period prescribed under the Maharashtra Village Panchayat Act, 1959;
- (ix) The Collector would be at liberty to call for the requisite records from the office of Tahsildar for the purpose of scrutinizing the dispute application filed by the Petitioner. The parties before the Collector would be at liberty to take inspection of the records and proceedings called for by the Collector from the office of Tahsildar;
- (x) The Collector would be also at liberty to call for the records from the office of the Caste Scrutiny Committee relating to the Caste Validity Certificate produced by some of the parties to the proceedings;
- (xi) The Collector shall give inspection to all the parties of all the documents which he proposes to rely upon for deciding the dispute application.

6. The learned counsel for the Petitioner, on instructions, states that his client does not propose to take the charge of post of Sarpanch, in view of the fact that no confidence motion decided by the Tahsildar is not set aside by this order. Statement is accepted. Till the issue is decided by the Collector in the dispute application filed by the Petitioner, Deputy Sarpanch who has taken charge on the post of Sarpanch, shall continue to act in the same position.

7. The Petition is disposed of in the aforesaid terms.

8. Rule is made absolute in the above terms.

9. All parties to act on authenticated copy of this order.

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signed by
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SUBHASH
LOKHANDE
Date:
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(GAURI GODSE, J.)

(R.D.DHANUKA, J.)