

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

WRIT PETITION NO. 863 OF 2023

Mahukar @ Madhu Vithoba Satpute __ Vs. __ The State of Maharashtra and ors

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

Court's or Judge's orders

Mr.Y.N.Thengre, Advocate with Mr. N.W.Doye, Advocate for petitioner
Mr. N.R.Patil, AGP for respondent nos. 1 to 3
Mr. V.G.Dhage, Advocate for respondent no.5

CORAM : AVINASH G. GHAROTE, J.
DATE : 06/03/2023

1] Heard Mr. Thengre, learned counsel for the petitioner and Mr. Dhage, learned counsel for respondent No.5.

2] The petition challenges the order dated 23.3.2022 passed by the Additional Collector, refusing to disqualify the petitioner under the provisions of Section 14(1)(j-3) of the Maharashtra Village Panchayat Act (pg.28), for having committed an encroachment on the land of Gat/Survey no.10, which is the Government land. The appeal filed thereagainst has been allowed by the learned Additional Commissioner by the impugned order dated 30.1.2023, holding the factum of encroachment by the petitioner to have been established in view of the measurement report dated 8.11.2021 (pg.56), as a result of which the disqualification has ensued.

3] Though Mr. Thengre, learned counsel for the petitioner relies upon the order dated 3.11.2011 passed in earlier proceedings (pg. 21) to contend that there was no encroachment and the finding has been rendered in that regard, the order dated 3.11.2011 merely records that the encroachment claimed to have been committed by the mother of the petitioner has not been proved.

4] In the instant matter, there has been a measurement of the encroachment made upon the Government land of Survey No.10, which has been measured on 8.11.2021. In this measurement, it has been found that the petitioner has committed an encroachment of 99 sq.m upon the land of Survey No.10, which is the Government land. The petitioner was personally present when the measurement was done, as is indicated by perusal of the measurement sheet at pg.66. No objection whatsoever has been taken to this measurement report, which has been accepted by the Additional Commissioner to hold the factum of encroachment. I am therefore not inclined to interfere in the impugned order, as nothing has been brought to my notice, to enable me to take a view otherwise. The petition is therefore dismissed. No costs.

JUDGE

Rvjalit

Digitally sign byRAJESH
VASANTRAO JALIT
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Signing Date:08.03.2023 15:13