

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

WRIT PETITION NO. 5935 OF 2018

1. Shri Vinodkumar S/o Madanlal Khandelwal,
Aged 55 years, Occ. Business, R/o Nehru Putla,
Itwari, Nagpur.
2. Jamnadas S/o Hotchand Waghwani,
Aged 55 years S/o Late Smt. Navalbai W/o
Hotchand Waghwani R/o Nehru Putla, Itwari,
Nagpur
3. Smt. Vandana W/o Jawaharlal Chug,
Aged 56 Years
4. Smt. Sumanbai W/o Pratapsingh Rathod, Aged
60 years No. 3 and 4
R/o Sheet No. 143, Circle No. 10/15 Nehru
Putla Itwari, Nagpur

...Petitioners

// VERSUS //

1. The State of Maharashtra, through Secretary,
Revenue Department, Mantralaya, Mumbai-32
2. Deputy Director, Land Record, Nagpur Division,
Nagpur
3. Superintendent of Land Record,
Collector Building, Nagpur
4. City Survey Officer No.1,
Civil Line, Nagpur
5. Shri Satyanarayan S/o Kasturchand Agrawal,
Aged 70 years, Occ. Business
R/o 167, Lendra Park, Ramdaspath, Behind
Shriram Bhavan, Nagpur
6. The Nagpur Municipal Corporation, through its
Municipal Commissioner, Civil Line, Nagpur-1.
7. Shri Satish S/o Nathuji Borkar,
Aged 39 years, Occ. Business

8. Shri Somesh S/o Nathuji Borkar
Aged 36 years, Occ. Business
7 & 8 R/o Plot No. 25, Dhanwantari Nagar,
Nagpur ... Respondents

Shri Vinay Dahat, Advocate h/f Shri A.A.Kathane, Advocate for the petitioner.

Shri H.D.Dubey, AGP for the respondent nos. 1 to 4.

Shri S.M.Ukey, Advocate for the respondent no. 6.

Shri S.I.Khan, Advocate for the respondent nos. 7 & 8.

CORAM : ANIL S. KILOR, J.

DATED : 3rd JULY, 2023.

ORAL JUDGMENT :

Heard. Rule. Rule made returnable forthwith. Heard finally by consent of the parties.

2. In this writ petition, the challenge is raised to the order dated 16th October, 2009 passed by the Hon'ble Revenue Minister in an appeal filed under Section 248 of Maharashtra Land Revenue Code, 1966 (in short hereinafter referred as "MLR Code, 1966") at the instance of respondent No.5.

3. At the outset, learned counsel for the petitioner has drawn attention of this Court to the provision of Section 248 of MLR Code, 1966 which prohibit the filing of third appeal.

4. In this case, the first appeal was decided by the Superintendent of Land Record vide order dated 30th April, 2003 against which the second appeal was preferred before the Deputy Director of Land Record who passed the order on dated 31st January, 2004 and against the said order the third appeal preferred before the Hon'ble Revenue Minister under Section 248 of MLR Code, 1966. In view of the

language of Section 248 of MLR Code, 1966, the third appeal is not maintainable.

5. The learned counsel for the respondent nos. 7 and 8 opposed the present petition and raised a ground of delay and laches to which the learned counsel for the petitioner has given reply that it is a public land and after the order was passed by the Deputy Director Land Record or even after order passed by the Hon'ble Minister in the year 2009, there was no activity. However, in the year 2018 there were activities of respondent nos. 7 and 8 to encroach over the land in question.

6. Considering the subject matter of the present petition and the fact that it relates to public land, I am of the opinion that the justification given in paragraph 17 of the petition is sufficient to explain the delay and laches to file the writ petition. Accordingly, I pass the following order.

- i. Writ petition is allowed.
- ii. The order dated 16th October, 2009 passed by the Hon'ble Revenue Minister in appeal No. 4904/783/Disput No.125/L-1 is hereby quashed and set aside.
- iii. Liberty is granted to the respondent nos. 7 and 8 to file revision, if they so desire.

[ANIL S. KILOR, J.]