

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
Writ Petition No. 3249 of 2022**

Kishor S/o Trambak Mahalle and another

Versus

Divisional Commissioner, Amravati Division, Amravati and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M.Tirukh, Advocate for the petitioners.

Shri H.D.Dubey, AGP for the respondent no.1/State.

Shri D.P.Dapurkar, Advocate for the respondent nos. 2 and 3.

CORAM : ANIL S. KILOR, J.

DATED : 31st MARCH, 2023.

Heard.

2. The present writ petition came to be filed challenging the notice under Section 56 of Maharashtra Village Panchayat Act, 1959 (in short referred as “Panchayat Act, 1959”) and the order passed in appeal passed by the Divisional Commissioner, Amravati dated 12th May, 2022 dismissing the appeal.

3. It is the case of the petitioner that though the petitioners are residing in a house allegedly constructed over the Government land, the notice was not given to Kishor Trambak Mahalle i.e. petitioner no.2 and notice was given in the name of Trambak Mahalle.

4. On a specific query to the learned counsel for the Gram Panchayat, he submits that as per his instruction the encroachment is made by the petitioner no.1 Kishor S/o Trambak Mahalle and not Trambak Mahalle and therefore, no notice was issued to Trambak Mahalle. It is submitted that Gram Panchayat has no grievance against Trambak Mahalle.

5. Learned counsel for the petitioner submits that in view of specific statement made by the Gram Panchayat that Gram Panchayat does not want to proceed against the petitioner no.2, as the encroachment was not made by Trambak, he wants to withdraw the present petition qua petitioner no.2.

6. As far as the petitioner no.1 is concerned, there are disputed questions of law involved in the present matter about the area of encroachment etc., I am not inclined to go into it.

7. Thereupon, the learned counsel for the petitioner seeks permission to withdraw the present petition qua petitioner no.1 with liberty to avail the remedy as available and permissible under the law. Accordingly, the writ petition is disposed of.

[ANIL S. KILOR, J.]