



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

Writ Petition No.6770/2023

Himmat V the Additional Commissioner, Nagpur and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. B.S. Dhandale, Adv for petitioner.
Mrs. S.S. Jachak, AGP for resp. nos. 1 to 3.

CORAM : AVINASH G GHAROTE J.
DATE : 10-10-2023

Heard Mr. Dhandale, learned Counsel for the
petitioner and Mrs. Jachak, learned AGP for the respondents.

2. The petition questions the order dated 25-08-23
passed by the Divisional Commissioner on the appeal filed by
respondent no. 7 against the order of the Additional Collector
dated 16-02-23 (pg 61) by which the respondent no. 7 was
dis-qualified for having committed encroachment on forest
land.

3. The learned Counsel for the petitioner, taking
exception to the order of the learned Commissioner contends,
that the encroachment on the land of Gat No.306, which is a
forest land is also by the respondent no. 7, to demonstrate
that he relies upon the 7/12 extract in respect of Gat No.308
which is in the name of the father of the respondent no.7, to
contend that the children of Gulabrao Maroti Bhure, are still
joint in mess and residence.

4. The learned Commissioner has rendered a categorical finding that the respondent no.7 and his brother are separate in mess and residence, which is indicated, by the separate ration cards and house tax receipts on the basis of which, it has upset the order of the Collector.

5. Though it is an admitted position that the brother of the respondent no.7 Purushottam Gulab Bhure is said to have made an encroachment on the land of Gat No.306 which is a Government land and was penalized for it by imposing fine there is nothing on record, to indicate that the respondent no.7 has made such encroachment. The only reason why such a presumption was drawn by the Collector is because the brother of respondent no. 7 was penalized for encroaching the land of G.No. 306. However, the Collector does not take into consideration that the position brought on record that the respondent no.7 and his brother are separate in mess and residence which is indicted from the ration card as well as the house tax entries. Merely because the separation has not been indicted in the 7/12 extract in respect of G. No. 308, that would not be a ground to draw a presumption regarding encroachment by respondent no. 7 on the land of G.No. 306.

6. In that view of the matter, I am not inclined to interfere in the order impugned in this petition. The petition is dismissed. No costs.

JUDGE

Deshmukh