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39-WP-3247-2023

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

39 WRIT PETITION NO. 3247 OF 2023

Narayan Sakharam Dantalwad

VERSUS

The State Of Maharashtra Through Additional Commissioner And Others

...

Mr. Chandrakant R.Thorat, Advocate for the Petitioner.

Ms. D. S. Jape, AGP for Respondent-State.

CORAM : KISHORE C. SANT, J.

DATE : 16th DECEMBER 2024

PC :-

1. Heard for some time.
2. The main ground pressed into service is that after the decision of the learned Collector, Nanded and the learned Commissioner, Aurangabad, holding the petitioner disqualified for committing an encroachment. The Civil Court has now decreed the Suit in favour of the present petitioner. It is held by the learned 2nd Joint Civil Judge Senior Division, Nanded that the plaintiff No.1 in the said RCS No.543 of 2021 is the owner and is in possession of the Suit land by judgment and order dated 22nd February 2024.

3. The learned Advocate for the petitioner submits that, in view of the said judgment now it is clear that, there is no encroachment over the Suit land. In view of the same, the impugned judgment needs to be set aside holding that the petitioner is not disqualified for committing the encroachment.

4. However, since in the Suit, the question of encroachment was not an issue before the Court in the Suit, it would be appropriate to direct the learned Collector to again decide the dispute by restoring the same during the pendency of the writ petition. The Collector while considering the dispute have also taken into consideration the judgment and decree passed in RCS No.543 of 2021 passed by the 2nd Joint Civil Judge Senior Division, Nanded on 22nd February 2024.

5. It is expected of the learned Collector to decide this issue within four weeks from today.

6. With this Writ Petition stands disposed off.

[KISHORE C. SANT, J.]