



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 4235 OF 2024

Dagaduba Hariba Kakade

VERSUS

The State Of Maharashtra Through  
Its Secretary And Others

...

Mr. S. S. Dambe, Advocate for the Petitioner

Mr. V. S. Badakh, AGP for Respondents/State

...

CORAM : RAVINDRA V. GHUGE &  
R. M. JOSHI, JJ

DATE : APRIL 23, 2024

PER COURT :

1. We have heard the learned Advocate for the  
Petitioner.

2. The Petitioner claims to be an 80 years old  
senior citizen. It is alleged before us that a godown  
was constructed under the Nanaji Krushi Sanjavani  
Prakalpa. Respondent No. 6 – Kisan Sakti Bachat Gat had  
filed proposal for construction of godown at village  
Dhanora, Tq. Sillod. By proposal dated 08.11.2022, list  
of members was submitted. Respondent No. 6 constructed  
the said godown under the Agricultural Technology  
Management Agency (ATMA) project under PoCRA scheme.  
Government subsidies were extended for such

construction.

3. The Petitioner's contention before us is that Respondent No. 6 constructed the entire godown in his gut number and it should actually have been constructed in Gut No. 5/4 instead of 5/9. According to him, the construction has been illegally done.

4. We find that there are several disputed issues. The Petitioner is an agriculturist who cannot pretend that he did not notice a construction in his land Gut No. 5/9. The entire construction has been erected. Whether the construction was erected by his consent or otherwise, there is misdeeds by Respondent No. 6, is a matter of investigation.

5. We do not find that an application tendered by the Petitioner dated 27.01.2024, addressed to the Divisional Commissioner, Chhatrapati Sambhajinagar (Aurangabad), would vest any jurisdiction in the Divisional Commissioner, to cause an inquiry and demolish the construction since there is nothing before us to indicate that it is under the supervision,

control or direction of the Divisional Commissioner that such project is implemented.

6. The learned AGP submits that the Petitioner has already approached Respondent No. 3, which is the appropriate authority. An inquiry has been caused and report dated 29.11.2023, is tendered by which it is expressed that the dispute cannot be investigated by such an inquiry.

7. In view of the above, **this Writ Petition is disposed off.** However, Petitioner would be at liberty to approach the Civil Court in order to get a declaration as regards the land and whether the construction was illegally erected in his gut number. All contentions of the litigating parties are kept open.

(R. M. JOSHI, J)  
Malani

(RAVINDRA V. GHUGE, J)