



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

Writ Petition (WP) No. 1736 of 2022

Gat Gram Panchayat Dhamangaon (Gram Panchayat Khusapur), Dist.
Wardha through its Secretary / Sarpanch

Versus

Additional Commissioner, Nagpur Division, Nagpur 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 S.D.Chopde, Advocate for the petitioner.
Shri Ghurde, AGP for the respondent nos. 1 to 3.
Shri B.S.Dhandale, Advocate for the respondent no.4.

CORAM : ANIL S. KILOR, J.
DATED : 8th APRIL, 2024.

Heard.

2. This matter pertains to removal of encroachment alleged to have committed by the respondent no.4.

3. The notices issued by the Gram Panchayat i.e. petitioner addressing to the respondent no.4 for removal of encroachment came to be set aside vide impugned order dated 12th November, 2021, passed by the Additional Commissioner, Nagpur Division, Nagpur

on the ground that there is no mention about the khasara number and other details in the notices issued under Section 53(2) of Maharashtra Village Panchayat Act, 1959.

4. After perusing the record, I am of the opinion that the Additional Commissioner, Nagpur has not committed any mistake in setting aside the notices issued by the petitioner-Gram Panchayat for removal of alleged encroachment.

5. It has come on record that there is a sale-deed executed in favour of the respondent no.4 by his uncle, in relation to the land in question. Therefore, there is a dispute about the ownership of the land. If the Gram Panchayat is claiming to be owner of the said land, then, in one of the notices dated 20th February, 2020 Gram Panchayat accepted the ownership of the uncle of respondent no.4 and also admitted the execution of sale deed in favour of the respondent no.4.

6. In the notice dated 20th February, 2020 the alleged encroachment is shown on the Zilla Parishad School's land. However, the learned counsel for the petitioner failed to point out the exact area of encroachment. He also failed to point out whether any measurement was carried out to determine the exact area alleged to have encroached or any exercise

undertaken by the Gram Panchayat to find out that the land in question is not a private land as claimed by the respondent no.4 on the basis of sale-deed.

7. In the circumstances, in absence of any sufficient material to show that any encroachment is made by the respondent no.4 in any public land and if such encroachment is made to what extent and what is the total area of encroachment, no error is committed by the learned Additional Commissioner in setting aside the notices under Section 53(2) of the Maharashtra Village Panchayats Act, 1959. Accordingly, the writ petition is dismissed.

8. The liberty is granted to the petitioner Gram Panchayat to proceed with the matter, if the petitioner Gram Panchayat so desires, after following due process and after complying the provisions of law.

[ANIL S. KILOR, J.]