



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

WRIT PETITION NO.4182/2023

Nanaji Mahadeo Kathane and anr. Vs. Hirakanya w/o Dashrath Donode & Ors.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. V. Khare, Advocate for petitioners.
Mr. A. A. Dhawas, Advocate for respondent No.1.
Mr. A. D. Ramteke, Advocate for respondent No.2.
Mr. S. S. Taram, Advocate for respondent No.3.
Mrs. M.A. Barabde, A.G.P. for respondent Nos.4, 5 & 7.

CORAM : ANIL L. PANSARE, J.

DATE : 10.07.2024

Heard.

2. Challenges is to order dated 30.05.2023 passed by the respondent No.4 in the proceeding filed under Section 16 (2) of the Maharashtra Village Panchayats Act, 1958. The Additional Commissioner has allowed the appeal and set aside the order dated 14.06.2024 passed by the Additional Collector, by which the respondent No.1 – Sarpancha of Dongargaon Sakshar Gram Panchayat, Tq. Lakhni, District Bhandara was found to have encroached upon the Government land through her husband and father in law and accordingly was disqualified.

3. The appellate authority has set aside the order, inter alia, on the grounds;

(i) *There is no record in the register of encroachments as regards respondent no.1 encroaching any land.*

(ii) *The alleged encroachment is on plot Nos.10/58 and 10/59.*

(iii) There is an entry of encroachment in the revenue record but it is in the name of Balram Dukru Bawane.

(iv) The plots under question have been regularized by the Government and, therefore, the land no more belongs to the Government.

(v) Merely because the respondent No.1's husband and father in law are residing in the said premises, that by itself cannot be an evidence to hold that they have encroached upon the Government land.

(vi) There is nothing on record to show that the respondent No.1's husband or father in law has purchased the disputed premises.

4. The counsel for the petitioners submits that out of the two plots namely, plot Nos.10/58 and 10/59, the Government has regularised only one plot namely, plot No. 10/58. There is no document to show that plot No.10/59 has been regularised.

5. Having heard both sides and having gone through the record and reasons assigned by the appellate authority, I need not go into the aspect whether plot No.10/59 was regularised or not. The fact on record indicates that the disputed premises were in the name of Baliram Dukru Bawane. The petitioner has alleged that respondent No.1's husband and/or father in law has purchased this premises from Bawane family. However, no such document was produced. The appellate authority, therefore, has held, and rightly so, that there is no evidence to indicate that the disputed plots were owned by the respondent No.1's husband and/or father-in-law. In absence thereof, merely because these two people were residing in the premises (which

belongs to Baliram Dukru Bawane), by itself will not be an evidence to infer that the occupier has encroached on the Government land.

6. In that view of the matter, I do not find any reason to interfere with the impugned order. There is no merit in the petition. The petition is, therefore, dismissed.

(Anil L. Pansare, J.)

Kahale