



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

WRIT PETITION NO. 3811 OF 2024

(Smt. Kamalabai w/o Sampat Badwaik ..vs.. Union of India and others)

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

Court's or Judge's orders

Mr. U.K. Bisen, Counsel for the petitioner.

**CORAM : NITIN W. SAMBRE &
ABHAY J. MANTRI, JJ.**

DATED : 28-06-2024

Under the provisions of the Maharashtra Land Revenue (Disposal of Land) Rules, area to the extent of 144.12 square meters out of Sheet No.14 in Gavthan area of Mouza Parsheoni, Tahsil Parsheoni was allotted permanently in favour of the petitioner as against the onetime revenue of Rs.21,446/-.

2. After the aforesaid allotment, the respondent-Municipal Council granted permission to carry out construction.

3. The petitioner subsequent thereto was issued a notice by the Municipal Council calling upon her as to why permanent patta granted to her should not be cancelled. Based on the show cause notice issued by the Municipal Council, as could be noticed from the order dated 30-4-2024 passed by respondent No.4-Sub-Divisional Officer, the Sub-Divisional Officer proceeds to cancel the patta granted in favour of the petitioner.

4. The fact remains that before cancelling such patta which was issued in favour of the petitioner, the Sub-Divisional Officer never issued a notice. His order dated 30-4-2024 does not reflect as to whether the Sub-Divisional Officer has issued independent notice and he was sensitive to the fact about there being any permission to carry out construction.

5. The same ground is formed basis for cancellation of permission for construction vide order dated 21-2-2023 passed by respondent No.2-Municipal Council.

6. All the respondent authorities while proceeding against the petitioner were completely insensitive to the following facts.

- (a) that a permanent patta has been granted in favour of the petitioner and cancellation of the same cannot be effected without affording opportunity of hearing, compensation, the offer of alternate land, which issues are conspicuously absent in the matter in hand.
- (b) based on the show cause notice issued by respondent No.2-Municipal Council, respondent No.4-Sub-Divisional Officer has no authority to pass an order of cancellation of patta.
- (c) since the land is owned by the respondent revenue authorities, respondent No.2-Municipal Council has no authority to take over possession of the same.

7. In the aforesaid background, let there be notice to the respondents, returnable on 26-7-2024.

8. Smt. Suhasini Deshpande, learned Counsel waives service for respondent No.1.

9. Mr. J.Y. Ghurde, learned Assistant Government Pleader waives service for respondent Nos.3 and 4.

10. We direct the parties to maintain *status quo* as on today.

(ABHAY J. MANTRI, J.)

(NITIN W. SAMBRE, J.)

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