



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

929 WRIT PETITION NO. 1198 OF 2021

ALKADEVI SURESH GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.R.D. Biradar, Advocate for the petitioner.
Mr.K.S. Patil, AGP for the respondent-State.
Mr.V.B. Deshmukh, Advocate for respondent No.3.
Mr.M.R. Jamdade, Advocate for respondent Nos. 6 & 7.

CORAM : KISHORE C. SANT, J.
DATE : 07.01.2025

PC :-

01. Heard learned Advocates for the parties. Taken up for final disposal by consent.

02. The order under challenge is dated 25.09.2019 passed by the learned Chief Officer, Nagar Parishad, Murum, Dist. Osmanabad. The order was passed on a complaint filed by respondent Nos. 6 and 7, praying the Chief Officer to cancel the entries taken in the record maintained by the Nagar Parishad in respect of the property of the petitioner. The learned Chief Officer accepted the complaint and directed to temporarily cancel the entries. It is case of the petitioner that respondent Nos. 6 and 7 have no concern with the property of the

petitioner. The complaint itself was without any locus to the respondents. It is submitted that the petitioner purchased the property from the earlier owner. The property extract shows that the property was standing in the name of previous owner since 1975-76 and there is no dispute. The petitioner purchased the said property on 07.01.2014 and since then he has become owner of the said property. Though the respondents are not concerned, they filed complaint. The learned Chief Officer without assigning any reasons has temporarily cancelled the entries, which is against law. He prays for allowing the petition.

03. Learned Advocate Ms. Jamdade vehemently opposes the petition. She submits that the complaint was submitted showing that the petitioner has produced forged and fabricated documents i.e. sale-deed and got the name entered into the property. She submits that the land of the petitioner in-fact is the Government land. By entering name in the property, the Government land is grabbed by the petitioner. The Chief Officer has rightly passed order considering all these aspects.

04. The learned AGP prays for passing appropriate orders. None appears for respondent No.2.

05. From reading of the impugned order it is seen that the entry is temporarily cancelled stating two reasons that a civil suit is filed by the petitioner bearing No. 172 of 2014 wherein the Nagar Parishad is not a party and there is no order passed against the Nagar Parishad. Secondly that the entries taken in the register are only for the purpose of recovery of the property tax and does not give any right of ownership. Except that no reasons are assigned. There is no discussion as to for what reason the Chief Officer has come to conclusion that the petitioner is not owner of the property. This Court while issuing notice has kept the ground of maintainability open. The learned Advocate for the respondents could not point out any alternative remedy to challenge the impugned order. This Court, therefore, feels that the petition can be entertained.

06. It was necessary for the Chief Officer to at least come to some conclusion that the petitioner has failed to show ownership etc. or any other right over the property and thereafter could have passed the order. No provision of temporarily cancelling the entries in the register is pointed out. The Chief Officer has also passed order subject to outcome of the dispute before the Civil Court i.e. Civil Suit No.172 of 2014. This Court finds that the Chief Officer has passed order without application of

mind and without going into vital aspect. The complaint was lodged stating that the sale-deed etc. were bogus. However, there is no discussion in the entire order. It is clear that the Chief Officer has passed the order with extraneous consideration. For all these reasons the order deserves to be quashed and set aside. The impugned order is, therefore, hereby quashed. The petition stands allowed in terms of prayer clause (B) of the petition. There shall be no order as to costs.

[KISHORE C. SANT, J.]