

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
WRIT PETITION NO.11317 OF 2025**

1. Pradnya Vidyadhar Devakar,
Age. 40 years, Occu. Housewife,
R/at. Kirape, Tal-Karad,
Dist- Satara.
2. Vijay Jaysing Devakar,
Age. 60 years, Occu. Farmer,
R/at. Kirape, Tal-Karad,
Dist- Satara.
3. Narendra alias Deepak Bayaji Kambale,
Age. 51 years, Occu. Farmer,
R/at. Kirape, Tal-Karad,
Dist- Satara. ..Petitioners.

Versus

1. Divisional Commissioner,
Pune Revenue Division,
Having his office at
Commissioner Building, Pune.
2. District Collector,
District Satara,
Having his office at Satara.
3. Uttam Namdev Lohar,
Age. 56 years, Occu. Farmer,
R/at. Kirape, Tal-Karad,
Dist- Satara. .Respondent

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Mr. Drupad Patil i/by Mr. Rugwed R. Kinkar, Advocate for Petitioners.
Mr. Sanjay D. Rayrikar, AGP for Respondent Nos.1 and 2.
Mr. Utkarsh Desai, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.

RESERVED ON : 10th OCTOBER, 2025.
PRONOUNCED ON : 14th OCTOBER, 2025.

JUDGMENT:-

1. Rule. Rule made returnable forthwith. With consent of parties, matter is taken up for final hearing at admission stage.
2. The present Writ Petition takes exception to order dated 08.9.2025 passed by Additional Divisional Commissioner, Pune Division, thereby upsetting order dated 03.04.2023 passed by District Collector, Satara in Dispute Application No.47/2021 and further declaring that petitioners have incurred disqualification in terms of Section 14(1)(J-3) of Maharashtra Village Panchayat Act (for short 'MVP Act').
3. In December 2020 petitioners were elected as Members of Village Panchayat, Kirape. The Village Panchayat consists of 7 members. On 26.10.2021, respondent no.3 filed proceeding before District Collector, Satara seeking disqualification of petitioners under Section 14(1)(J-3) of MVP Act on ground that petitioners have encroached upon Government land, as such, incurred disqualification. The petitioners filed reply to application and brought to notice of District Collector that in year 1967 there was Earthquake in region of Koyna River. The village Kirape was rehabilitated at the distance of 2 kilometers from river bed. The Government acquired land from lands of private holders. Accordingly, lay out was prepared and plots were

allotted to displaced persons. Since plots were smaller in size, village panchayat leased additional area of land owned by grampanchayat to villagers. Since 30 to 40 years, they are residing there. It was their contentions that village panchayat has regularized possession of occupants on rent basis and since 2006, rent is being collected. Therefore, petitioners and other villagers cannot be treated as encroachers.

4. The District Collector without considering defence of petitioners, declared them as disqualified vide order dated 03.04.2023. Aggrieved petitioners filed Appeal before Additional Divisional Commissioner, who was pleased to partly allow Appeal and remand matter back to District Collector, so as to cause fresh enquiry on the basis of record to find out if petitioners are lease holders or encroachers over Government land. The District Collector caused detailed enquiry and allowed dispute holding that petitioners are encroachers. The petitioners again approached Additional Divisional Commissioner in Appeal, who affirmed findings of District Collector. Hence, this Writ Petition.

5. Mr. Drupad Patil, learned Advocate appearing for petitioners submits that this is a unique case where entire village has been relocated being part of Earthquake area. The land Gut No.630 (Survey No.86) was acquired for rehabilitation and petitioners and others were allotted plots. However, Sanads were not issued. Approximately, 1100

voters of village Kirape are residing in lands bearing Gut Nos.629 and 630 since 1967 onward. The Grampanchayat by its Resolutions dated 11.07.2006 and 29.11.2006 started collecting rents from occupiers of Gut No.630 and petitioners are also paying rents. In this background, petitioners or any villager, who has occupied area in Gavthan land cannot be termed as encroacher. If disqualification contemplated under Section 14(1)(J-3) of MVP Act is applied in facts of present case, almost entire village would incur disqualification to hold post of member of village panchayat. The object of legislation prescribing disqualification for encroachment on Government land cannot be applied in facts of present case. The petitioners were never served with notice treating them as unauthorized occupants. Recently, entries as encroachers are taken in village panchayat record, only after District Collector had passed order of disqualification against petitioners in first round of litigation. He would, therefore, urge that impugned order deserves to be quashed and set aside. In support of his contentions he relies upon observations of Supreme Court in case of ***Manisha Ravindra Panpatil Vs. State of Maharashtra and Others***¹ and judgment of this Court at Nagpur Bench in case of ***Savita W/o Premdas Jadhav Vs. The Divisional Commissioner, Amravati Division Amravati and Ors.*** (*Writ Petition No.390/2022 dated 22.02.2023*).

6. Per contra, Mr. Utkarsh Desai, learned Advocate appearing for respondents takes this Court through record tendered into service and

¹ 2024 SCC OnLine SC 2690.

endeavours to convince that neither petitioners are allottee of plots by State Government nor authorized occupants.

7. Having considered submissions advanced by learned Advocates appearing for respective parties and on perusal of documents tendered into service, it is discernible that Gut No.630 stands in name of State of Maharashtra. The portion of said land to the extent of 67R has been adopted for use of public Gavthan and recorded in name of Grampanchayat Kirape. The position of record is consistent till this date.

8. It appears that, by Resolution dated 29.11.2006, Grampanchayat decided to assess Gavthan land for collection of taxes. Accordingly house numbers are allotted to constructions on plots, which are part of original Gut No.630. The petitioners are in occupation of houses in Gut No.630. However, ownership of land is shown in name of village panchayat. List of encroachers has been prepared by village panchayat, wherein names of petitioners are appearing.

9. The District Collector in his order dated 02.06.2025 observed that as per Form 8, House Nos.478, 556 and 29 is on land within ownership of village panchayat, but petitioners are shown as possessors. The land Gut no.630 was initially owned by private persons. It has been acquired for the purpose of Gavthan in year 1999. As such, it was shown in name of State Government through Tahsildar,

Karad. On 07.02.2018, lay out is prepared for Gavthan of village Kirape in Survey No.86. However, till this date, there is no allotment in favour of any person. The construction of houses raised by petitioners is on Government land. With these observations, District Collector concluded that petitioners incurred disqualification in terms of Section 14(1)(J-3) of MVP Act. The Divisional Commissioner has affirmed aforesaid findings.

10. The Hon'ble Supreme Court of India in the case of ***Janabai Vs. Additional Commissioner and others***², has observed thus :

“30. We may note here with profit that the word “person” as used in Section 14(1)(j-3) is not to be so narrowly construed as a consequence of which the basic issue of “encroachment” in the context of disqualification becomes absolutely redundant. The legislative intendment, as we perceive, is that encroachment or unauthorized occupation has to viewed very strictly and Section 53, therefore, provides for imposition of daily fine. It is also to be borne in mind that it is the Panchayat that has been conferred with the power to remove the encroachment. It is the statutory obligation on the part of the Panchayat to protect the interest of the properties belonging to it. If a member remains in occupation of an encroached property, he/she has a conflict of interest. If an interpretation is placed that it is the first encroacher or the encroachment made by the person alone who would suffer a disqualification, it would lead to an absurdity. The concept of purposive would impel us to hold that when a person shares an encroached property by residing there and there is continuance, he/she has to be treated as disqualified. Such an interpretation subserves the real warrant of the provision. Thus analysed, we are of the view that the decision in Sagar Pandurang Dhundare does not lay down the correct position of law and it is, accordingly, overruled.”

11. It is argued on behalf of petitioners that they were allotted plots as per lay out and further contended that additional area in their occupation is allotted by village panchayat looking to need for extra area. No documentary evidence is brought on record in support of such contentions. The petitioners are not disputing that their houses are part of Gut No.630. They are also not disputing that they do not possess any authentic document indicating that they are in authorized or permissive possession. Eventually, no fault can be found in impugned order.

12. In result, Writ Petition stands dismissed.

13. Rule stands discharged.

(S. G. CHAPALGAONKAR)
JUDGE