



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
WRIT PETITION NO.784/2025

Rahul Ashok Ingle .Vs. Divisional Commissioner, Amravati and 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. M. Chandekar, Advocate for petitioner.

Mr. S. B. Bissa, A.G.P for respondent Nos. 1 and 2.

Mr. S.S.Dhengale Assisted by Ms S.Jain, Advocates for respondent No.4.

CORAM : ANIL L. PANSARE, J.

DATE : APRIL 1, 2025

Having heard both sides and having gone through the record, it appears that the petitioner approached respondent No.2 – Collector, under Section 14-A of the Maharashtra Village Panchayats Act, 1959 (for short the “Act of 1959”), seeking disqualification of respondent No.4, who came to be elected as Member of Gram Panchayat, Andhera. The results were declared in 2021. According to the petitioner, respondent No.4 has encroached upon the Government land. The nature of encroachment is cultivation on the land belonging to the Government. This cultivation is said to be done by her father in law, who is no more. The petitioner relied upon revenue entry of August, 2013. The Collector, on the basis of the report filed by Talathi, took a view that respondent No.4, in the capacity of family member can be said to be a person who has encroached upon the Government land.

2. In appeal, respondent No. 1- Divisional Commissioner, found discrepancy in the statements persons noted by Talathi, which forms part of the report. According to Divisional Commissioner, various persons have made conflicting statements as regards encroachment, one of whom namely Mahadeo Ambilkar, claimed that he himself has encroached upon the Government land.

3. According to the petitioner, since respondent No.4 is daughter in law of Dattu Ambilkar, she is liable for action under Section 14 (1) (j-3) of the Act of 1959.

4. Counsel for respondent No.4 submits that her father in law expired in March 2021. She further submits that that she is residing with her husband in an independent residence. In any case, she submits that alleged encroachment is on the place, which is not connected with her residence and, therefore, there is no evidence of respondent No.4 having made encroachment on Government land.

5. I have given thoughtful consideration to the submissions made by both sides. The petitioner is relying upon documents of August, 2013 to allege encroachment at the hands of respondent No.4, that too in the capacity of she being member of a family consisting of her father in law and others. The alleged encroachment is made by her father in law, who expired in March 2021. There is no evidence as regards continuation of the said encroachment post election of respondent no.4.

6. Thus, there are two important points that weigh in favour of respondent No.4. First, there is no evidence of respondent No.4 residing with her father in law namely Dattu Ambilkar, who even otherwise expired in March, 2021. Second, Section 14 (1) (j-3) provides that no person shall be a member of a panchayat, or continue as such, who has encroached upon the Government land or public property. Thus, the person claiming encroachment at the hands of Member of Panchayat will have to show that the Member has either encroached upon Government land or the encroachment is continued by the elected Member. Such is not the case here.

7. Counsel for the petitioner has then invited my attention to Section 114 of the Indian Evidence Act, 1872, which provides that the Court may presume existence of any fact, which it thinks likely to

have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case. The learned counsel has relied upon illustration “D”, which provides that a thing or state of things which has been shown to be in existence within a period shorter than within which such things or states of things usually cease to exist is still in existence.

8. To my mind, this presumption will not be attracted in the present case inasmuch as the nature of encroachment is cultivation. The petitioner has not placed on record as to which crop was cultivated by respondent No.4’s father in law in the year 2013. In any case, no crop will usually continue to exist for a period more than one year unless the encroachment is in the form of trees or other such plant that has long lasting existence.

9. Thus, the common course of natural events in the present case viz. life of crop would lead to only one conclusion that the crop, if at all was standing on the Government land in August 2013, will cease to exist after one year. The petitioner, thus, failed to prove encroachment made either by respondent No.4’s father in law post respondent No.4’s election and, in any case, has miserably failed to show any nexus of respondent No.4 with her father in law, as regards alleged encroachment. The authorities below failed to consider the aforesaid valid point.

10. Nonetheless, respondent No.1 has thought it proper to remand the inquiry back to the Collector who may consider the same in the light of what has been stated hereinabove.

11. There is no substance in the petition. The writ petition is dismissed. No order as to costs.

(Anil L. Pansare, J.)