

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

WRIT PETITION NO.7363 OF 2013

MOHAMMAD MOINODDIN MOHD.AZIMODDIN PETITIONER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS RESPONDENTS

Mr.S.S.Chapalgaonkar, learned counsel for the petitioner.
Mr.S.S.Thombre, learned counsel for respondent Nos.5 and 6.
Mr.M.S.Deshmukh, learned counsel for respondent No.4.
Mrs.A.V.Gondhalekar, learned AGP for respondent/State.

**CORAM: MOHIT S. SHAH, C.J. &
 RAVINDRA V.GHUGE, J.**

Dated : March 24, 2015

P.C.:-

1. At the request of learned counsel for respondent No.4/the Municipal Council, Parbhani, leave to add The Deputy Superintendent of Land Records, Parbhani as respondent No.7.
2. Learned AGP Mrs.Gondhalekar waives service for respondent/State.
3. Notice to the newly added party, returnable forthwith. Learned AGP Mrs.Gondhalekar waives service for the newly added respondent No.7.

4. Heard learned counsel for the parties.

5. The petitioner, by this writ petition under Article 226 of the Constitution of India, has prayed for directions to respondents to remove the encroachment over the plots and open space situated at Survey No.574, within the limits of Municipal Corporation, Parbhani. It appears that the representations dated 20/10/2008 and 01/03/2013 were already sent by the petitioner to the Municipal Council and the Administrative Officer of the Municipal Corporation had also written letter dated 12/12/2014.

6. In the affidavit-in-reply dated 24/03/2015, filed by the Deputy Commissioner, Parbhani Municipal Corporation, it is *inter-alia* stated as under :-

“though Sy.No.574 admeasuring 15 Acres was purchased vide registered sale deed dt.20/08/1966 by the then Municipal Council, area admeasuring 4H. 85R out of same is sold by the then Municipal Council Parbhani vide registered sale-deed dt.02/01/1984 to Maharashtra State Seed Corporation. Thus, purported encroachment made over Sy.No.574, if made then it will have to be demonstrated by the petitioner specifically to ascertain the fact that such an

encroachment is made over area belong to Respondent No.4-Municipal Corporation. However, by abundant caution on behalf of Municipal Corporation on 12/12/2014 an application is made to Deputy Superintendent of Land Records, Parbhani for measurement of Sy.No.574/1, 574/2 and 575, however, till this date the concerned Deputy Superintendent of Land Records, Parbhani has not measured the same.

4. I say that, in view of above facts and situation, upon measurement of land, if it is found that any encroachment is made over portion of Sy.No.574/1, 574/2 and 575 as belong to Respondent No.4-Corporation the respondent No.4 would take appropriate steps so as to remove encroachment in accordance with the provisions of Law.”

7. In view of the above, it is directed that respondent No.7 i.e. the Deputy Superintendent of Land Records, Parbhani shall carry out survey of the land bearing Survey No.574 and the said Officer shall submit his report to the Collector, Parbhani as well as to the Municipal Commissioner, Parbhani Municipal Corporation which shall be done within 2 (two) months from today.

The concerned Authority shall thereafter take action in accordance with law within 6 (six) months from the date of

receipt of the report from the Deputy Superintendent of Land Records.

8. Petition is, accordingly, disposed of in terms of the above directions.

CHIEF JUSTICE

RAVINDRA V.GHUGE, J.

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