

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

PUBLIC INTEREST LITIGATION NO.86/2014

Mohan s/o Marotrao Karemore

...Versus...

State of Maharashtra, through Principal Secretary, Revenue Department,
Mantralaya, Mumbai – 32 and others

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

Court's or Judge's orders

Shri V.D. Awchat, Advocate for petitioner
Shri D.P. Thakare, AGP for respondent nos.1 to 3
Shri A.D. Mohgaonkar, Advocate for respondent no.4
Shri R.E. Moharir, Advocate for respondent no.5

CORAM : SMT. VASANTI A. NAIK AND
A.M. BADAR, JJ.

DATE : 27.03.2015

By this petition, which is registered as Public Interest Litigation, the petitioner seeks a direction to the respondents – authorities to decide the representation of the petitioner for removal of encroachment at Mouza Mahadula.

On a reading of the petition and on a perusal of the documents annexed thereto, we find that the people are residing in Mouza Mahadula on the land Survey No.23/1, even according to the petitioner, for a period of more than 37 to 38 years. If the respondents are in a position to take action against the persons, who have made the construction several years earlier, they are free to do so. We are not inclined to order the authorities to issue directions to the concerned respondents to remove the alleged encroachments. We also find from the affidavit-in-reply

on behalf of the respondent no.3 that the Grampanchayat Mahadula has given no objection certificate for construction and electricity connections to the structures in which the alleged encroachers are residing.

In this view of the matter, since the alleged encroachers may even have a right to seek regularization of the encroachment under the various provisions of law, we are not inclined to direct the respondents to take action against the alleged encroachers, who even according to the petitioners are in a settled position of the structures and properties for nearly 40 years.

In view of the aforesaid circumstances, we dispose of the Public Interest Litigation with no order as to costs.

JUDGE

JUDGE

Wadkar