

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

**WRIT PETITION NO. 597 OF 2015**

Yashwant Kondiba Khandagale

.. **Petitioner**

**Versus**

The State of Maharashtra,  
Through Secretary for Department of  
Revenue and Forest, Mantralaya,  
Mumbai and others

.. **Respondents**

Shri Sarang P. Joshi, Advocate for the Petitioner.  
Shri S. B. Pulkundwar, A. G. P. for Respondents.

**CORAM : S. V. GANGAPURWALA AND**  
**K. K. SONAWANE, JJ.**  
**DATE : 24TH JUNE, 2016.**

**PER COURT :-**

1. Mr. Joshi, the learned counsel for the Petitioner submits that, the Petitioner had encroached upon the government land prior to 1990. The State Government by its Resolution dated 28.11.1991 had adopted a policy to regularize the encroachments on the government land who were occupying prior to 14.04.1990. The learned counsel submits that, the Petitioner had filed an application seeking regularization of his encroachment. The said application is rejected vide order dated 19<sup>th</sup> March, 2013 only on the ground that there is nothing on record to show that the Petitioner was in possession of the said land prior to 1990. The learned counsel submits that, on or about 31.07.2010 it was observed that the adjacent land owners had stated about the possession of the Petitioner from 1987 – 1988. The same is also

recorded in the order dated 31.07.2010 and the report was submitted recommending the regularization.

2. The learned A. G. P. submits that, the detailed report and the record was scrutinized and it was found that, at no place there is an entry of the Petitioner being in possession prior to 14.04.1990. The same is rightly considered.

3. As per the Government Resolution dated 28<sup>th</sup> November, 1991 the regularization of encroachment is made of those persons who had encroached upon the land for a period between 1978 – 14.04.1990. The authorities have scrutinized the 7/12 extract, Gaon Namuna No. 1-E and did not find the evidence of possession of the Petitioner. In light of that the said order is passed. In the writ petition also there is no independent evidence on record. Considering the above and the available material on record the case of the Petitioner cannot be considered.

4. However, in case the Petitioner produces some evidence of his possession prior to 14.04.1990 on the writ land then, the Petitioner is at liberty to make fresh application to the authority concerned. In that case, the authority shall reconsider the application and the evidence and pass fresh order. In that event, the impugned order would not come in the way of the Petitioner.

5. The Writ Petition is accordingly disposed of. No costs.

**[ K. K. SONAWANE, J. ]**

**[ S. V. GANGAPURWALA, J. ]**