

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

**WRIT PETITION NO. 5523 OF 2015
WITH
CIVIL APPLICATION NO 9041 OF 2015**

Bhima Shivram Salunke and others ...PETITIONERS

versus

The State of Maharashtra and others ...RESPONDENTS

**WITH
WRIT PETITION NO. 5524 OF 2015
WITH
CIVIL APPLICATION NO 9059 OF 2015**

Deepak Appasaheb Mali and others ...PETITIONERS

versus

The State of Maharashtra and others ...RESPONDENTS

.....
Mr. Vinod Y. Bhide, Advocate for petitioners
Mr. N.B. Patil, AGP for respondent No. 1
Mr. Parag V. Barde, Advocate for respondents No. 3 and 4
.....

**CORAM : S. V. GANGAPURWALA AND
K.K. SONAWANE, JJ.**

DATED : 2nd AUGUST, 2016.

Order :-

1. Mr. Bhide, learned counsel for petitioners submits that some of the petitioners have approached Apex Court in writ Petition No. 1778 of 1986 with other connected matters. The Apex Court directed the State to determine rights of the petitioners for regularization. The petitioners had also approached this court by filing writ petition No. 454 of 2001. In said writ petition, this court had directed the State Government to

complete the enquiry in accordance with the policy decision taken by the Government as early as possible and also directed to look into the judgment of Apex Court in writ Petition No. 1778 of 1986. Learned counsel submits that thereafter *panchnamas* have been conducted by the authorities showing possession of the petitioners over the writ land as claimed by the petitioners. As no decision has been taken by the Government, Maharashtra State Farming Corporation (for short "Corporation") issued notice to the petitioners directing to remove their constructions or else Corporation would take necessary action.

2. Mr. Barde, learned counsel for respondents - Corporation submits that some petitioners are the encroachers over some of the area of the land as detailed in affidavit in-reply. Notice is issued asking the petitioners to remove encroachment or else respondents -Corporation would remove the same in accordance with rules and law. Learned counsel submits that respondents in the said notice had already stated that they would take recourse to the legal procedure. Learned counsel further submits that in the orders, referred to by the petitioners, of this Court and Apex Court, the Corporation was not party. Even *panchnama* on which the petitioners have relied, has been conducted behind the back of Corporation and it does not bind Farming Corporation. Upon making physical verification, it is found that only seven to eight petitioners in each petition have encroached two gunthas land each.

3. It appears that pursuant to order passed by the Apex Court and this Court in the proceedings referred to above, some *panchnamas*

were conducted, however, no decision was taken by the State Government for regularization of their possession over the land Respondent – State Government may take decision upon the same as expeditiously as possible preferably within six months from the date of this order. Before taking any decision the authority concerned of State shall hear the petitioners as well as the Corporation. Respondents - Corporation cannot take law in its hand. Notice issued by the Corporation itself suggest that if petitioners do not remove their constructions then the Corporation would take action as per the Government Rules which would presuppose that they would follow procedure of law. In that case, the petitioners may take up proceedings as may be permissible in law.

4. With aforesaid directions, writ petitions stand disposed of. No costs.

5. In view of disposal of writ petitions, nothing survives in pending civil applications and the same stand disposed of.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S. V. GANGAPURWALA, J.]

MTK