

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 143 OF 2016**

Bhushan D. Samant .. Petitioner
V/s.
The Chief Minister and ors. .. Respondents.

Mr. Gunratan Sadavarte for the Petitioner.
Ms S.S. Bhende, AGP for the State-Respondent..

**CORAM: DR. MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.
DATE : 21 OCTOBER 2016.**

P.C.

1] The petitioner before this Court contends that the information received from the office of the Tahsildar, Mulund clearly indicates that more than 450 acres of land described as “*Khoti Land*” are unauthorisedly encroached upon by the people having support of money and men. According to him, in spite of approaching the respondent authorities with all the information obtained under the Right to Information Act, 2005 (RTI Act), the authorities have slept over the matter without enquiring into the representation at Exhibit-X. According to the petitioner, several apartments have come up on these lands. Several photographs are also annexed in support of his contentions. The petitioner also contends that on the date of the Maharashtra Khoti Abolition Act, 1949 coming into force, the Khoti tenure shall, wherever it prevails in the districts of Ratnagiri and Colaba be deemed to have been abolished.

2] There are other provisions which refer to how Khoti Dharekari and tenants become occupants of the land, how the commutation of dues of these lands have to be made apart from fixation of occupancy price of commutation value which could be recovered as land revenue arrears. So far as Section 8, it says that uncultivated and waste lands are all property of the nature specified in Section 37 of the Code, vests in the Government.

3] According to the petitioner, there is encroachment by trespassing into these lands. Mere description of the lands as Khoti land may not give rise to anyone to say that it is in the hands of unauthorised occupants, unless there is application of mind vis-a-vis facts of a particular case with reference to the provisions of the Act. In order to contend that there is unauthorised occupation of these lands after the abovesaid Abolition Act, several factual ascertainment exercise has to be undertaken. By placing the informations under the R.T.I. Act, we cannot straightaway come to the conclusion that the petitioner is entitled for the relief sought. Further, the authorities concerned may have to call for several records and documents to ascertain the factual material and then conclude, after an enquiry, whether the allegations made in the representation of the petitioner is right or wrong, which is at page 292 at Exhibit-X. If we issue Rule or Notice, it is nothing but taking upon us the exercise which has to be done by the concerned Revenue Authorities. After the concerned department takes a final call on the representation of the petitioner, it would be just and proper for us to consider the matter whether there is

application of mind on the part of the concerned department in analyzing the factual situation vis-a-vis the law relied upon by the petitioner. In that view of the matter, we are of the opinion that this is not the stage for us to opine regarding the nature of land and so also consequential reliefs sought in the PIL. It would be just and proper for us to direct the respondent authorities to consider the representation of the petitioner and make an enquiry with reference to the factual situation and dispose of the matter within the time-frame, since the petitioner's grievance is that for the last one year, the application is pending before the authorities, which did not get the attention of the authorities.

4] For the reasons mentioned above, although the Collector, Mumbai Suburban District, is not made a party, since the concerned authority would be Mumbai Suburban District Collector and the State being a party before us, we dispose of the PIL by directing the Collector, Mumbai Suburban District, to consider the representation by treating the PIL as a representation, within four months from the date of receipt of a copy of this order alongwith a copy of the PIL and all the annexures relied upon by the petitioner.

(CHIEF JUSTICE)

(M.S.SONAK, J.)