

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 86 OF 2016

Shrikant Ganpati Mane and others.	...	Petitioners.
V/s.		
State of Maharashtra and others.	...	Respondents.

Dhairyasheel Sutar for the petitioners.
Mrs.S.S.Bhende, AGP for respondent Nos.1 to 3.
R.D.Rane for respondent Nos.4 and 5.
Sushil Inamdar for respondent No.6.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND M.S.SONAK, J.**

DATE : 2nd December 2016.

PC. :

The present PIL is filed complaining non-removal of structures standing on the land being Gat No.121 admeasuring 0.63 R situated in Village- Shendur, Taluka- Kagal, District- Kolhapur. According to the petitioner, there is need to initiate action under the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971 and resume the said land. In spite of several representations made by the petitioners, the instrumentality of the State did not take any steps and failed to remove the unauthorized

persons from the said land, therefore, the petitioners were compelled to approach this Court by filing the present PIL seeking following reliefs:

- “(a) That, this Hon'ble Court be pleased to issue a Writ of Mandamus and/or Writ in the nature of Mandamus, order or direction under Art. 226 of Constitution of India, directing the respondents to take appropriate action against occupants of and demolish and/or remove unauthorized structures standing on land Gat No.121 admeasuring 0.63 R situated at Village Shendur, Taluka Kagal, District Kolhapur.
- (b) This Hon'ble Court b pleased to further direct the Respondents to initiate an action under Maharashtra Land Revenue (Disposal of Government lands) Rules, 1971 and resume the land Gat No.121 admeasuring 0.63 R situated at Village Shendur, Taluka Kagal, District Kolhapur in view of breach of condition and also on completion of term of grant dated 15.11.1983.
- (c) Pending the hearing and final disposal of this writ petition direct the respondents to take appropriate action against occupants of and demolish and/or remove unauthorized structures standing on land Gat No.121 admeasuring 0.63 R situated at Village Shendur, Taluka Kagal, District Kolhapur.
- (d) Pending the hearing and final disposal of this writ petition direct the Respondents to initiate an action under Maharashtra Land

Revenue (Disposal of Government lands) Rules 1971 and resume the land Gat No.121 admeasuring 0.63 R situated at Village Shendur, Taluka Kagal, District Kolhapur in view of breach of condition and also on completion of term of grant dated 15.11.1983.”

2. In reply affidavit filed on behalf of respondent No.1 to 3, several facts are brought on record as to how the land was allotted to the people of Dhangar community way back in the year 1983 and how the conditions of lease came to be violated by those persons which resulted in termination of lease in their favour. Paragraphs-2 to 4 of the affidavit-in-reply are relevant, which read as under:

“2. I say that the Gat No.121, situated at village Shendur, Taluka Kagal, District Kolhapur is a gairan land. Pursuant to order dated 15.11.1983, passed by the Collector, Kolhapur, the land admeasuring 0.63 R from the abovesaid Gat No.121 (hereinafter referred to as the said land) was allotted to people of Dhangar (Shephard) community for Kondwada purposes on lease for 30 years w.e.f. 15.11.1983 on certain terms and conditions mentioned therein (Exhibit-B-27). The said lease came to end on 14.11.2013.

3. I say that some complaints were filed by the petitioner herein in the office of Collector, Kolhapur stating therein that the allottees of the said land had constructed unauthorized structures on the said land. Pursuant to the said complaint,

the collector, Kolhapur verified the facts mentioned therein and noticed that the people of Dhangar community had constructed some temporary and permanent structures on the said land which was in breach of terms and conditions of order dated 15.11.1983.

As Dhangar community had constructed unauthorized structure by committing breach of terms and conditions of the order dated 15.11.1983. The Collector, Kolhapur had sent the said proposal to the State Government for further action on 12.2.2015.

4. I say that now on 22 November 2016, the State Government has taken the decision not to extend the lease of said land and has directed the Collector, Kolhapur to take the said land in government possession and remove the encroachments made on the said land.

I say that pursuant to the said decision taken by the State Government, the office of the Collector, Kolhapur will take all necessary and further action regarding:

- i) taking the said land in Government possession and
- ii) Removal of encroachments on the said land.

In accordance with law expeditiously and preferably within six months.”

3. Learned counsel for the petitioner submits that in terms of the statements made in the affidavit-in-reply, it is clear that the authorities concerned have taken steps not only to terminate the

lease but also to remove the unauthorized structures on the land. We are not going into the rights of those lessees who in law are entitled to challenge the termination of lease, if any, but the fact remains that the State authorities have taken steps for removal of unauthorized structures since the lease granted expired long back apart from violation of the terms and conditions.

4. It is needless to state that if the leasehold rights conferred over the Dhangar community gives rise to any cause of action for those persons, they are at liberty to seek redressal in accordance with the procedure. None of the observations made herein would come in their way, if they take such action.

5. In the above view of the matter, in view of the statements made in the affidavit-in-reply, we are of the opinion that no further directions need to be issued to the respondents. The petition is disposed of accordingly.

(M.S.SONAK, J.)

CHIEF JUSTICE