

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

WRIT PETITION NO.6267/2016

Sadashiv Waghaji Bhagat

...Versus...

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

WITH

WRIT PETITION NO.6268/2016

Ramchandra Kalanu Vaidya

...Versus...

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

WITH

WRIT PETITION NO.6269/2016

Kasabai w/o Bhimrao Gaikwad

...Versus...

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

WITH

WRIT PETITION NO.6270/2016

Dhondiram Arjun Bhagat

...Versus...

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

WITH

WRIT PETITION NO.6271/2016

Devman Haribhau Manwar

...Versus...

State of Maharashtra, through its Secretary, Department of Revenue and Forest,
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 A.S. Fulzele, Addl. G.P. for respondents – State

**CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.**

DATE : 24.11.2016

Since the issue involved in these writ petitions is identical, they are decided by this common order.

By these writ petitions, the petitioners seek a direction against the respondent – Collector to decide the applications made by the petitioners for regularization of encroachment.

According to the petitioners, the petitioners have encroached upon E-class land and under the provisions of the Maharashtra Land Revenue Code they have applied to the Collector for regularization of the encroachment. It is stated in the petitions that the applications of the petitioners are not decided and the encroachments are not regularized.

Shri Fulzele, the learned Additional Government Pleader appearing for the respondents states that in view of the judgment of the Hon'ble Supreme Court, reported in ***AIR 2011 Supreme Court 1123***, regularization of the encroachment on E-class land is not permissible. It is stated that as per the directions issued by the Hon'ble Supreme Court in paragraph 22 of the said judgment, the State Governments were required to prepare a scheme and provide for speedy eviction of illegal

occupants on such lands. It is stated that the Government has issued a Government Resolution after the decision of the Hon'ble Supreme Court was rendered. It is submitted that since the encroachment on Gairan or E-class lands cannot be regularized, the claim of the petitioners cannot be granted.

On hearing the learned Additional Government Pleader and on a perusal of the writ petitions, we find that the encroachments on E-class land cannot be permitted, in view of the law laid down by the Hon'ble Supreme Court. By the directions issued by the Hon'ble Supreme Court vide paragraph 22 of the judgment, all the State Governments in the country were directed to prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and it was directed that the said lands be restored for the common use of villagers of the village. The Hon'ble Supreme Court further directed the State Governments to frame a scheme providing for the speedy eviction of the illegal occupants after giving them show-cause-notice and a brief hearing. It is further observed that regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes. It is not the case of the petitioners that lease has been granted to the petitioners under some Government notification. After the judgment was rendered by the Hon'ble Supreme Court, the Resolution was passed by the State Government that Gairan or E-class lands cannot be allotted and the encroachment on the same cannot be regularized.

Since the relief sought by the petitioners cannot be granted, in view of the various decisions passed by this Court after the Hon'ble Supreme Court passed the judgment in the case of *Jagpal Singh & Ors....Versus...State of Punjab & Ors.*, reported in *AIR 2011 Supreme Court 1123*, the writ petitions are liable to be dismissed.

Hence, we dismiss the writ petitions with no order as to costs.

JUDGE

JUDGE

Wadkar