

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

920 WRIT PETITION NO. 1425 OF 2016

GORAKSHANATH BHIKAJI KAMBALE AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Mote Krushna D And Mr.  
T. S. Lodhe

AGP for Respondents State: Mr. S. B. Joshi  
Advocate for Respondents :

Advocate for Respondents 6 and 7 : Mr. S. T. Shelke  
Advocate for Respondents 9 to 12, 14, 15 and 17 to 21:  
Mr. P. S. Pawar

**CORAM : R. M. BORDE &  
K. L. WADANE, JJ.**

**DATE : 27th April, 2017**

**ORDER:**

1. The petitioner is praying for issuance of directions to the respondents to remove illegal encroachment over Gat Nos 900 and 791 of village Kharwandi, Taluka Nevasa, Dist. Ahmednagar.

2. It is contended that the aforesaid lands are Government lands and there are encroachments committed by different individuals. It is also not a matter of dispute that the encroachers have not been allotted the land under any scheme formulated by the State Government nor they have been inducted in possession under the authority of the Village Panchayat or the State Government.

3. Affidavit in reply has been presented on behalf of respondents 1 to 3, wherein it has been stated that after receiving complaint, report of the Block Development officer is called and on receipt of report of the Block Development Officer, Newasa appropriate action would be taken.

4. In this context, decision of the Supreme Court in the matter of Jagpal Singh & others Vs. State of Punjab & ors. in Civil Appeal No.1132/2011 decided on 28.01.2011 needs to be referred. In para 22 of the judgment, the Apex Court has observed thus:

"22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlit land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/ Union Territories in India are directed to do the needful, taking the help of the senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or

political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal possession. 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, or where there is already a school, dispensary or other public utility of the land."

5. Considering the observation of the Supreme Court referred above, it is the responsibility of the State Government to ensure removal of encroachment.

6. In the facts and circumstances of the case, the writ petition can be disposed of by issuing directions to respondent Nos. 1 to 3 to take steps for removal of encroachment, after receipt of report of the Block Development Officer, Panchayat Samiti, Nevasa and in consonance with the said report and it is accordingly directed.

7. With the directions as above, writ petition disposed of.

(K. L. WADANE, J.)

(R. M. BORDE, J. )

JPC