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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 625 OF 2017**
**IN**
**WRIT PETITION NO. 1399 OF 2017**

Mr. Pirgonda Raosaheb Patil ...Intervener/Applicant

In the Matter Between:

Vishwakarma Karagir Mandal ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. Abhijit Desai a/w. Mr. Abhijit Devkhile for the Applicant
Mr. Dhairyasheel Sutar for original Petitioner in Writ Petition

**CORAM : NARESH H. PATIL &**
**M.S. KARNIK, JJ.**
**DATED :22ND MARCH, 2017**

**P.C.** :

Not on Board. Taken on Board.

2. The Petitioner prays for following reliefs in Writ Petition:

> ***(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 respondents to take appropriate action in pursuance to notice dtd. 20.1.2017 against encroacher to stop ongoing construction and also further to demolish and/or remove unauthorized construction on C.T.S No.107 of 463.0 sq. mtr., situated at Village Kabnur, Taluka: Hatkanangale, District Kolhapur.*

> ***(b)*** *This Hon'ble Court be pleased to direct the respondent no.2 and 3 to take appropriate action against encroacher to stop ongoing construction and also further to demolish and/or remove unauthorized construction on C.T.S. No.107 of 463.0 sq. Mtr., situated at Village Kabnur, Taluka: Hatkanangale, District Kolhapur in accordance with provisions of Sec.50 of the Maharashtra Land Revenue Code 1966."*

3. By an order dated 1st February 2017 the Division Bench of this Court passed following order:

> *"1. Not on board. Taken on board.*
>
> *2. Heard learned Counsel appearing for the Petitioner and the learned AGP for the first, second and seventh Respondents.*
>
> *3. Issue notice to the rest of the Respondents, returnable on 23rd March 2017.*
>
> *4. Our attention is invited to the letter dated 20th January 2017 addressed by the Sub-Divisional Officer, Ichalkaranji Division, Ichalkaranji, to the Tahsildar, Hatkalangale. In turn, the Tahsildar, Hatkalangale has issued the communication dated 21st January 2017 to the Circle Officer, Kabnur.*
>
> *5. We direct the Circle Officer to visit the site in question and ascertain whether any illegal construction is being carried out on the land vesting in the State Government. He shall submit a report to the Tahsildar, Hatkalangale, within a period of one week from the date on which an authenticated copy of this order is received by him.*
>
> *6. Needless to add that if the Circle Officer finds that any illegal construction is going on the land vesting in the State Government, the Tahsildar, Hatkalangale, shall immediately*

> *initiate appropriate action in accordance with law for stopping the illegal construction and for demolishing the illegal construction".*

4. Mr. Pirgonda Raosaheb Patil filed an application for intervention vide Civil Application No. 625 of 2017. It is submitted by the Counsel appearing for the Intervener that consequent to the order passed by this Court the Revenue Authority are likely to initiate action of demolition of the structure of the Petitioner. The Petitioner herein without making the Intervener as party Respondent preferred this Petition and had prayed for certain reliefs.

5. Counsel appearing for the Petitioner disputes the contentions of the Respondents. Counsel disputes that the structure is situated on the land owned and possessed by the Intervener. According to the learned Counsel the land belongs to the Government. Therefore, necessary action is required to be taken.

6. In the present writ petition we would not entertain the issues

relating to the revenue records, right to own or possess the subject property, nature of construction of the subject property and the rights of the contesting parties to claim the ownership or possessary rights over the subject land. These issues are to be contested in appropriate Civil Forum.

7. We, therefore, observe and direct that the Respondent authority shall hear all the parties before taking any further steps. Thereafter appropriate decision shall be taken. Till then no steps consequent to the notice be taken. We do not express any opinion on the merits of the matter.

8. The Petition is disposed of. The Civil Application also disposed of accordingly.

**(M.S. KARNIK, J.)** **(NARESH H. PATIL, J.)**