

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO. 80 OF 2013

Namdeo Dhondiba Shinde and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

WITH

CIVIL APPLICATION NO. 10606 OF 2018

The State of Maharashtra and others .. Petitioners

Versus

Namdeo Dhondiba Shinde and others .. Respondents

WITH

CIVIL APPLICATION NO. 12253 of 2018

Dilawar Singh Usan Singh Juni and others .. Petitioners

Versus

Namdeo Dhondiba Shinde and others .. Respondents

Shri. V. D. Salunke, Advocate for Petitioners.

Shri. M. N. Deshpande, Advocate for Petitioners in C.A. No. 12253/2018.

Smt. M. A. Deshpande, Addl.G.P. for Respondent/State.

**CORAM : S.V. GANGAPURWALA AND
S. M. GAVHANE, JJ.
DATED : 03rd October, 2018**

PER COURT:

. Heard Mr. Salunke, the learned advocate for the petitioners and the learned Addl.G.P. for the respondents.

2. According to Mr. Salunke, the learned counsel large scale encroachments are made on the public road and other public places in the jurisdiction of rehabilitated village Balsa (Khurd) Tq. & Dist. Parbhani. No steps are taken to remove the encroachments. According to the learned counsel, earlier erroneous affidavits were filed denying encroachments on the public road but lastly affidavit is filed accepting the contentions of the petitioners. The respondents be directed to remove the encroachments and perform their duty.

3. The learned Addl.G.P. submits that the affidavit is filed by the Deputy Collector - Rehabilitation on behalf of the Respondent Nos. 2 to 5 and the steps would be taken to remove the encroachments by the end of

November – 2018.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Time to time this court passed orders in the present Public Interest Litigation. Eventually, as per the order dated 21.08.2018 the affidavit is filed. Even it is submitted in the affidavit that the measurement has been carried out and the encroachments are noticed.

Paragraph 7, 10, 11 and 12 read thus'

7. I say and submit that, the encroachment is not on open space of Grampanchayat village Balasa (Kh.), Gairan land, plotted area but the encroachment is over some part of the road of Gram Panchayat & over land of irrigation department. The some of the persons have made encroachment & they have built the 37 tin-shade houses. Out of these, the 4 houses & small statue of Dr. Babasaheb Ambedkar and Sahityaratna Lokshair Annabhau Sathe is on the land of Irrigation Department. And rest of the 33 houses are over the road of Grampanchayat out of said 37 houses, construction of 01 house appears to be permanent structure, construction of 02 houses is with bricks and mud alongwith tin-

shade and there are tin shades over remaining 34 houses. The said encroachers are using the land of irrigation department as yard and also for their daily usage as a traffic road. Due to the said encroachment width of roads is narrowed from 15 mt. Road to 6 mt. Road i.e. 20 feet. Therefore it is clear that, the encroachment is over on 9 mt road & over the land of Irrigation department.

10. I say and submit that, the deponent received the map showing encroachment today at 09.30 AM, therefore directions would be issued to Chief Executive Officer, Zilla Parishad Parbhani, Block Development Officer Panchayat Samittee Parbhani and Gram Sevak Gram Panchayat, Balasa (Kh) to remove the encroachment as per the Govt. Resolution dated 10/10/2013 as early as possible and also directing to Tahsildar Parbhani and Superintendent Police to assist them as far as law and order is concerned.

11. I say and submit that, deponent are taking care to ensure that this encroachment is removed at the end of November 2018 as already Executive Engineer, Jaykwadi Project requested to give him some time period for removal of the same encroachment, as encroachment is over the area of both departments.

12. I say and submit that, as per the present

situation, there is 6 meter wide road available for utilization for the villagers and there is no obstruction to the villagers for utilizing the said road. The said encroachment over the road will be removed as early as possible by following due procedure of law. If both the irrigation department and Zilla Parishad / Gram Panchayat requires any assistance from the deponent office for removing the encroachment then the office of the deponent will assist them.

6. We accept the statement made in paragraph no. 11 of the affidavit as an undertaking to this court and the action shall be taken in tune with the affidavit filed within the time frame as stipulated in the affidavit itself. The stipulation as given in the affidavit shall be strictly adhered to by the the respondents. In case, intervenors have any right, they may prosecute the rights in accordance with law.

7. With these observations, the Public Interest Litigation stands disposed of. In view of disposal of Public Interest Litigation the Civil Application and intervention application are also disposed of.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]