

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

WRIT PETITION NO. 219 OF 2017

Manoj s/o Babanrao Salve

..Petitioner

Versus

The State of Maharashtra,
through its Principal Secretary,
Forest and Revenue Department,
Mantralaya, Mumbai and ors.

..Respondents

Ms. S.D. More, Advocate for petitioner

Mr P.S.Patil, A.G.P. for respondents no.1 and 2

Mr D.J. Choudhari, Advocate for respondents no.5-1 and 5-2

Mr M.S. Shaikh, Advocate for respondent no.6

**CORAM : S.V. GANGAPURWALA &
A.M. DHAVALA, JJ**

DATE : 16th February 2018

PER COURT

1. We have heard the learned Advocate for the petitioner.
2. The learned Advocate submits that on the face of it, encroachment is done by the respondent no.5 on the highway. The said encroachment would cause obstruction in the pick hours of the traffic and chances of the accidents cannot be ruled out. The encroachment causes inconvenience to all and also amounts to nuisance. The same deserves to be removed.
3. Mr Choudhari, learned Counsel for respondents no.5-1 and 5-2 submits that against the order of the Sub Divisional Officer directing removal of encroachment, the petitioner had approached the Divisional Commissioner by filing revision. The revision is partly allowed and the matter is remanded back for fresh enquiry to the Sub

Divisional Officer, Majalgaon under order dated 12.7.2017 and the matter is subjudice before the Sub Divisional Officer, Majalgaon.

4. In view of the fact that the proceedings are still subjudice, it would not be proper to preempt any proceeding. The Sub Divisional Officer, Majalgaon, where the proceedings are pending pursuant to the order for remand dated 12.7.2017 shall decide the said proceedings expeditiously, preferably within four months. The respondent no.5 shall co-operate in expeditious disposal of the said proceedings and shall not seek adjournments.

5. After the order is passed by the Sub Divisional Officer, Majalgaon in the pending proceedings, the parties are at liberty to take appropriate steps.

6. The petitioner has deposited an amount of Rs.25,000/- pursuant to the order of this Court as a security.

7. Considering the fact that on merits, the petition is not entertained and we did not find the proceedings to be *mala fide*, the amount of Rs.25,000/- is directed to be refunded to the petitioner.

8. Writ Petition accordingly disposed of. No costs.

(A.M. DHAVAL, J.)

(S.V. GANGAPURWALA, J.)