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

PUBLIC INTEREST LITIGATION NO.10 OF 2018

Sandip s/o Gautam Waghmare,
Age: 27 years, Occu: Service/Agril.,
R/o: Waghunde, Tq. Parner,
Dist. Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through Principal Secretary,
Revenue and Forest Department,
Mantralaya, Mumbai-32
2. The Collector, Ahmednagar
3. The Sub Divisional Officer,
Shrigonda-Parner Division,
Ahmednagar
4. The Tahsildar, Parner,
Tq. Parner, Dist. Ahmednagar
5. Baban s/o Kondiba Gadilkar,
Age: Major, Occu: Agril.,
Waghunde Bk. Tq. Parner,
Dist. Ahmednagar

..RESPONDENTS

Mr Hemant U. Dhage, Advocate for petitioner;
Mrs A. V. Gondhalekar, A.G.P. for respondent Nos.1 to 4;
Mr Sandeep D. Munde, Advocate holding for Mr R. R. Karpe, Advocate for
respondent No.5

**CORAM : PRASANNA B. VARALE
AND
MANISH PITALE, JJ.**

DATE : 19th September, 2018

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ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner is before this Court with a basic prayer i.e. prayer clause (A) which reads thus:

"By issue of the writ of mandamus of any other writ or direction in nature of mandamus the respondents may kindly be directed to remove encroachment committed by respondent No.5 over public property situated at Waghunde Bk. Tq. Parner, Dist. Ahmednagar."

3. Prayer (B) is subsequent prayer and prayer clauses (C) and (D) are interim prayers.

4. The sum and substance of the grievance of the petitioner is, respondent No.5 encroached upon Government land and there are various Government Resolutions preventing such acts. By these Resolutions, the State authorities are directed to take appropriate steps to prevent such an encroachment. The Government Resolution dated 10th October, 2013 is placed on record to submit that the officers at various level, like regional level officers, block level officers are directed to take appropriate steps including lodgment of the report in case of mischief played by way of

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encroachment. It was submitted before this Court that the authorities be directed to take appropriate steps to remove encroachment.

5. The Division Bench of this Court was pleased to issue notice on 18th January, 2018.

6. Mrs Gondhalekar, learned Asstt. Govt. Pleader submitted that oral instructions are received by her that the authorities are taking appropriate steps and one of such steps is, the order passed by the Additional Collector, Ahmednagar. She invited our attention to the said order dated 30th May, 2018. A copy of same is taken on record and marked as 'X' for identification. Perusal of the said order shows that the petitioner was before the authority along with one Rajendra Ubale and other villagers apprising the authority that respondent No.5 Baban Kondiba Gadilkar encroached upon the Government land. The parties were heard by the competent authority. Respondent No.5 before the competent authority prayed for regularization of encroachment. The Additional Collector, Ahmednagar, considering rival submissions of the parties as well as considering the record and various Government directions including the Resolutions from year 1991, passed an order thereby allowing the claim of the petitioner and other applicants. The Additional Collector, in clear and unambiguous terms, rejected the prayer of respondent No.5 for regularization of the encroachment. The Additional Collector, by clause 3 of the said order

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directed his subordinate officer, namely Tahsildar, Parner to take appropriate steps to give effect to the said order. Thus, the order clearly shows that the authority passed the order under the provisions of the Act and as such, the grievance of the petitioner is already redressed by the respondent authority, particularly by the Additional Collector by way of order dated 30th May, 2018. As the purpose of the petitioner by approaching this Court by filing this public interest litigation is served, nothing remains in the present litigation. Accordingly, public interest litigation is disposed of.

7. Learned Counsel appearing on behalf of the petitioner fairly submitted that the petitioner was directed to deposit an amount of Rs.10,000/- in this Court to show his bona fides and in view of the disposal of the petition, he expressed his willingness to divert the amount deposited in this Court towards the High Court Bar Library. Accordingly, the petitioner is permitted and the said amount be remitted to the High Court Bar Library at Aurangabad.

(MANISH PITALE, J.)

(PRASANNA B. VARALE, J.)

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