

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**WRIT PETITION NO. 3319/2018**

Bholenath S/o Laxman Ramteke & ors.

..VS..

State of Maharashtra & ors.

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders  
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Court's or Judge's orders

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Shri D.P. Bhongade, Advocate for the petitioner(s)  
Shri N.R. Patil, AGP for the respondent nos. 1 and 2  
Shri M.V. Samarth, Advocate for the respondent no. 5  
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**CORAM : B.P. DHARMADHIKARI AND**  
**Z.A.HAQ, JJ.**

**DATED : 03/08/2018**

1]            Heard.

2]            We find that respondent nos. 3 to 5 had already removed encroachment of petitioners and petitioners have again attempted to occupy that portion by putting in temporary structures. The land which they are attempting to occupy and claim is needed for construction of public road as is evident from map at page no. 82-A. Notices for removal of encroachment were served on 13/04/2018 and before that on 07/03/2018.

3]            Effort of petitioners is to claim regularization.

4]            Petitioners rely upon Annexure-G which is a letter written by City Survey Officer to Nazul, Naib Tahsildar. He has after spot inspection recorded a finding that it is the property of State Government on which there is

encroachment. He has thereafter stated that if encroachment is to be regularized, certain amount will be required to be recovered. It appears that petitioners accordingly have succeeded in also depositing the amount towards unauthorized occupation charges. These documents do not confer any right or title in petitioners.

5] At this stage, advocate for petitioners has placed reliance upon Division Bench judgment reported at 2018, (3) Mh.L.J. 499 (Paramanand S/o Variyomal Katyari & anr. vs. State of Maharashtra and others) to urge that there in identical circumstances, this Court has granted damages to persons whose structures were demolished. Facts in that matter show that there were pukka structures in which businesses were bring done and those structures selectively were demolished leaving other structures intact. The facts in that matter therefore reveal high handed action taken by respondents therein.

6] Here, after the petitioners were dispossessed, they were expected to occupy alternate accommodation i.e. flat made available accordingly to respondents. Petitioners have not taken possession of that land and have encroached back on same land.

7] We therefore find no substance in the petition.

8] We find note prepared by City Survey Officer No. 2, Nagpur on 22/09/2003 prima facie misleading. We therefore direct respondent nos. 1 and 2 to enquire into the propriety of said note and if necessary, proceed departmentally against that officer.

9] With this direction, we dismiss writ petition. No costs.

**JUDGE**

**JUDGE**

*Ansari*