

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.76 OF 2016

LAXMIBAI DAMODHAR THORAT

...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA
AND OTHERS

...RESPONDENTS

Mr. N.I. Jadhav, Advocate for Petitioner
Mr. S.S. Dande, AGP for Respondent Nos. 1 to 4

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE : 18th NOVEMBER, 2019

PER COURT :

1. The only grievance raised in the petition is of non-removal of the encroachment in spite of the order of this Court as well as the order passed by the competent Civil Court.

2. Mr Jadhav, the learned Counsel appearing for the petitioner invited our attention to the affidavit in reply filed on behalf of respondent Nos. 2, 3 and 4 through Chandrakant Prakash Shelke, Tahsildar, Gangapur, Tq. Gangapur, Dist. Aurangabad way back in the year 2016. In the said affidavit in reply, reference is made. In the affidavit in reply, the deponent i.e. Shri C.P. Shelke, Tahsildar, Gangapaur admits the fact situation of filing of the petition, order

passed by this Court dated 24.05.2003, as well the order passed by the learned Joint Civil Judge, Senior Division, Aurangabad, whereby, Regular Civil Suit bearing No. 510/2004 by respondent No. 6 was dismissed. The copy of the letter dated 13.07.2016 is placed on record annexed to the affidavit in reply. The Tahsildar, Gangapur directed the Block Development Officer, Panchayat Samittee, Gangapur to remove the encroachment expeditiously by issuing notice and submit the action taken report to the Tahsildar. The copy of this communication is also addressed to the Collector, Aurangabad.

3. Learned Counsel Mr. Jadhav submits that there is no progress as per his instructions, in spite of the letter issued to the Block Development Officer, Panchayat Samittee, Gangapur dated 13.07.2016. Considering these facts, we are of the opinion that the grievance of the petitioner can be redressed by directing respondent No. 3, Collector to seek feed back and the action taken report through Tahsildar, Gangapur on the backdrop of communication dated 13.07.2016.

4. In case, the Block Development Officer, Panchayat Samittee, Gangapur fails to show any positive response, the Collector, Aurangabad to exercise his powers under section 53 of the Maharashtra Village Panchayat Act, and more particularly, under section 53 (2) (a).

5. We further state that if the Collector is of the opinion that if the Panchayat Samittee, Gangapur fails to take any action, the Collector, Aurangabad to take appropriate action as specified under section 2(a) of Section 53 of the Maharashtra Village Panchayat Act within a period of two weeks.

6. With these directions, the Public Interest Litigation is disposed of.

7. Authenticated copy of this order be issued to the learned Assistant Government Pleader. The learned Assistant Government Pleader to communicate the order to the Collector, Aurangabad.

[ANIL S. KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

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