

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5104 OF 2016

KALYAN LAXMAN POLE AND OTHERS
VERSUS
STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners :
Mr. Solanke Shrikrashna B.
Addl.G.P. for Respondents No. 1 to 4 :
Mrs. A. V. Gondhalekar
Advocate for Respondent No. 5 :
Mr. M. K. Deshpande
Advocate for Respondent No. 6 :
Mr. A. G. Godhamgaonkar

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

DATE: 20th FEBRUARY, 2019

PER COURT :

1. We have heard the learned counsel for the respective parties.

2. The District Collector, Aurangabad has filed *affidavit in reply*. The paragraphs no. 9 and 10 of the affidavit reads thus -

“...

9. I say and submit that, though the plot admeasuring 45X40 sq. ft. was allotted to the respondent No. 6 strictly for the purpose of

the construction of the house, however, it is revealed that, the respondent No. 6 have committed illegal and unauthorized encroachment on the Govt. Gairan land in Gat No. 95 at village Gandheli to the extent of area admeasuring 40 R. The respondent No. 6 has also illegally and unauthorisedly installed the stone crushing machine on the said Gairan land without permission of the authorities. Though the plot admeasuring 45X40 sq.ft. was allotted to the respondent No. 6 in the said Govt. land for the construction of the house, however, on the spot inspection conducted by the concerned Circle Officer and the Talathi on 23.01.2019, it is revealed that, the respondent No. 6 has committed illegal encroachment over 40 R. land on the Govt. Gairan land in Gat No. 95 at village Gnadheli and has installed a stone crushing machine on the said land, which is not in operation since 2014. The respondent No. 6 has not utilized the plot for the purpose for which it was allotted to him and under the garb of the said allotment order, the respondent No. 6 has committed illegal and unauthorised encroachment over the Govt. Gairan land in Gat No. 95 at village Gandheli to the extent of 40 R., which is liable to be remove in the light of the directions issued by the Hon'ble Supreme Court of India in the case of Jagpal Singh and others Vs. The State of Punjab and others. The copy of the panchanama and report dated 23.01.2019 conducted and submitted by the concerned Circle Officer and Talathi are annexed herewith and marked as **EXHIBIT "R-7"** collectively.

10. I say and submit that, as on date the possession of the petitioner of the respondent No. 6 on the land in Gat No. 95 is in the form of encroachment as the stone crusher of the respondent No. 6 has been shut

down by the District Administration and the Pollution Control Board in the year 2014 itself and so in such circumstances the encroachment made by the respondent No. 6 is required to be removed by the Tahsildar, Aurangabad in accordance with the provisions of the Maharashtra Land Revenue Code. The necessary directions will be given to the respondent No. 3 to that effect."

3. The said *affidavit in reply* is accepted as an undertaking to this Court.

4. In view of the *affidavit in reply* filed, that the Collector has directed Tahsildar to move in accordance with provisions of the Maharashtra Land Revenue Code, 1966 no further orders are required.

5. Writ Petition accordingly stands disposed of.
No costs.

[A. M. DHAVAL, J.] [S. V. GANGAPURWALA, J.]

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