

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

**WRIT PETITION NO.10898 OF 2017**

**BHAGWAN GOVARDHAN DESHMUKH AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. S.V. Suryawanshi h/f. Mr. S.V. Deshmukh, Advocate for petitioners.  
Mr. A.V. Deshmukh, AGP for respondent/State.

**CORAM : SUNIL P.DESHMUKH &  
S.M.GAVHANE,JJ.  
DATED : 30.07.2019**

**P.C. :-**

1. Heard learned counsel for petitioners and learned A.G.P. for respondents. Petition had been moved seeking relief as under :-

*"(B) Issue a writ of mandamus or any other appropriate writ, order or direction thereby directing the Respondent authorities to remove the encroachment over the Government forest land over survey no.166, 204 & 234-A situated at village Jawale-Kadlag, Taluka: Sangamner, District : Ahmednagar and sub-divide it in Pot-Hissas as per allotment made in favour of Petitioners within a stipulated period and for that purpose issue necessary writ, order or directions."*

2. Affidavit-in-reply has been filed by respondents No.1 to 4, stating that :-

"8. I say and submit that, as per the order of this Hon'ble High Court in writ petition No.3993/14, writ petition No.3994/14 and writ petition No.3995/14 the measurement of Survey No.166,204 and 234-A were carried out and also the boundary marks were fixed. It is observed in the measurement that some encroachment over the survey No.166, 204 and 234-A was done by adjacent land holders survey nos. The Respondent authorities have decided encroachment done by the adjacent land holders and accordingly have issued notices to them directing them to remove this encroachment. The respondent authorities have taken due care to abide with the order of this Hon'ble Court and accordingly after carrying out the measurement of the said lands, finalized the extent of encroachment by the adjacent land holders and now according to section 50 and 53 of Maharashtra Land Revenue Code, 1966, Respondent No.4 has initiated action against the unauthorized encroachers. Accordingly the Respondent No.4 have issued notices dated 22.12.2017 to these encroachers instructing them to remove the encroachment with their own expenses within seven days otherwise the encroachment will be removed according to section 50 and 53. After removing the encroachment over the said land, it will be feasible to Respondent No.5 to carry out the measurement in respect of sub division (pot hissa) of the said survey numbers.

9. I say and submit that, the Respondent No.2,3 and 4 have taken every step to remove the encroachment over the land in question. Already notices were issued by Respondent No.4 to encroachers with instructions to remove encroachment with their own expenses, otherwise the encroachment will be removed according to section 50 to 53 of MLRC 1966 in police protection and the expenses of such removal of encroachment will be recovered from encroachers. I say that, as per my knowledge pot hiss measurement fees is not deposited by the Petitioners hence the pot-hissa measurement is not carried out."

3. In view of aforesaid, to substantial extent, grievance of petitioner

has been taken care of. Additionally, learned counsel for petitioner, on instructions, states that measurement fees would be deposited within a fortnight. It appears that purpose underlying petition has been met with and no further orders are required in the petition.

4. Hopefully, subject to orders passed by the authorities or other forums, consequential process would be completed within a period of six months.

5. Writ petition is disposed of.

**[S.M.GAVHANE,J.]**

**[SUNIL P.DESHMUKH,J.]**