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

WRIT PETITION NO.2227 OF 2019

Sayyad Nasir Husen

Age : 40 yrs., Occu. Labour,

R/o House No.7518, Panchpeer Chawadi,

Maliwada, Ahmednagar

..PETITIONER

VERSUS

1. The State of Maharashtra,
Through the Chief Secretary,
Ministry For Urban Development,
Government of Maharashtra,
Mantralaya, Mumbai

2. The Collector,
Ahmednagar

3. The Commissioner,
Ahmednagar Municipal Corporation,
Ahmednagar

..RESPONDENTS

Mrs Almas Abdul Quader , Advocate for petitioner;

Mrs M.A. Deshpande, A.G.P. for respondent nos.1 & 2

**CORAM : PRASANNA B. VARALE
AND
S.M. GAVHANE, JJ.**

DATE : 7th March, 2019

ORAL ORDER:

Heard learned Counsel appearing on behalf of the petitioner.

2. The petitioner is before this Court seeking directions to the authority for removal of an encroachment and accordingly prayer

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clause (B) is incorporated in the petition. The documents placed on record show that the petitioner is resident of Ahmednagar town and made representation to the Commissioner, Municipal Corporation, Ahmednagar. One of such representations submitted to the Commissioner, Municipal Corporation, Ahmednagar, dated 12th February, 2014, is placed on record at Exh.A. Then there are certain documents showing exchange of communications between the authorities such as revenue authorities and the Municipal Corporation. Be that as it may. It may not be necessary or us to refer to all the communications in detail, suffice it to say that the documents placed on record by the petitioner himself show that the authorities were not turning back to the representations or applications submitted by the petitioner.

3. On the contrary, the documents placed on record show that the authorities were acting promptly by issuing notices for removal of the encroachment. One of such notices is also placed on record at page 36 of the petition. The Tahsildar/Executive Magistrate, Ahmednagar directed the Circle Officer to take appropriate steps for removal of encroachment and submit the action taken report to him. The Executive Magistrate, Ahmednagar not only issued notice of removal of encroachment but warned those noticees that if the encroachment is not removed by the noticees on their own, the action of removal of

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the encroachment would be taken by applying force and whatever expenses incurred for such exercise would be recovered from the noticees as arrears of land revenue. It seems that the communication of the Tahsildar to the Circle Officer is dated 1st March, 2018. The notice issued by the Executive Magistrate is of 2nd July, 2018, that the authority had been to the spot so as to remove the encroachment and it was revealed that the encroached area was being used for residential purpose and as it was rainy season, in view of the Government Circular dated 15th July, 2005, the authority was unable to take steps of removal of encroachment forcefully in the rainy season. Thus, the report was submitted to the Tahsildar. A panchnama to that effect is also placed on record by the petitioner himself.

4. Considering all aforesaid facts, we are of a clear opinion that this is not a case wherein the authority is not paying any heed to the representation/application submitted to the authority for removal of an encroachment. At the cost of repetition, we state that in this matter the authority acted promptly and the exercise for removal of encroachment could not be completed in view of the Government Circular.

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5. In view of above referred grounds, we are not inclined to entertain the petition. At the most, we may permit the petitioner to approach the authority afresh with an application/representation for taking appropriate steps and in case such a representation is submitted, the authority may take appropriate steps.

With above observations/directions, the petition is disposed of.

(S.M. GAVHANE, J.)

(PRASANNA B. VARALE, J.)

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