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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

PUBLIC INTEREST LITIGATION NO. 70 OF 2019

Arun Baburao Kadam and Ors.

... Petitioners

V/s.

State of Maharashtra and Ors.

... Respondents.

Ms. Anushree Kurup I/b. Mr. Dhairyasheel Sutar for the Petitioners.
Mr. P.P. Kakade, Govt. Pleader a/w. M.M. Pabale, AGP for the State.

***CORAM : PRADEEP NANDRAJOG, C.J. &
N.M. JAMDAR, J.***

DATE : 19 JULY 2019.

P.C. :-

The Public Interest Litigation is listed for preliminary hearing.

2. Heard learned Counsel for the Petitioners and the State of Maharashtra.

3. For the directions we propose to issue there is no requirement to call for a counter affidavit to be filed.

4. Case of the Petitioners is that part of land comprised in Gat No. 754/A, 754/A-1, 754/B (new C.T.S.Nos. 2611/1 to 26) is Gairan land. The portion was allotted to Medical Department Co-operative Housing Society Ltd., another portion was allotted to Public Health Co-operative Housing Society Ltd., but on account of breaches committed by the two Societies, the allotment was cancelled and the land stood restored to the Government.

5. In other words, the entire land referred to hereinabove re-vested in the Government.

6. The grievance is that individuals started encroaching upon the Gairan land and started effecting constructions. Few encroachers have approached a Civil Court.

7. As per the Petition a representation was made to the Collector, District Kolhapur as also the Tahsildar of the Taluka incharge but encroachments could not be removed. Probably Police assistance was not given. On 25.06.2018 the Tahsildar stayed the proposed action of eviction calling upon the encroachers to remove the unauthorized structures constructed by them within one month. It is pleaded that said month being over, the encroachers continued to occupy parts of the Gairan land and no action to remove the encroachment is being taken.

8. Pleading that on 03.12.2018 the 1st Petitioner gave a written representation to the Collector, District Kolhapur, grievance is that no action to free the Gairan land from encroachments is being taken.

9. The annexures filed with the Writ Petition support the contentions.

11. It is the duty of the Collector of a District to ensure that the Government land is not encroached upon and if any encroachment is detected, action to remove the encroachee has to be taken. The action has not to be by way of issuing notice to the encroachees. The action has to be by removing the encroachments and securing the land so that in future no encroachment takes place.

12. We dispose of the Petition directing that the Writ Petition be treated as a representation to the Collector, District Kolhapur. The District Collector, Kolhapur would ensure that the Gairan land is made free from encroachment and the unauthorized structures constructed are demolished.

13. Needless to state the Collector has enough power to direct the local Police Authorities to provide Police Aid in case there

is resistance to the removal of encroachment.

14. Compliance shall be made by the District Collector, Kolhapur within six months from today.

N.M. JAMDAR, J.

CHIEF JUSTICE