

Sequeira

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

PUBLIC INTEREST LITIGATION NO. 64 OF 2015

Ajit Gangadhar Jagtap	.. Petitioner
<i>Vs</i>	
The State of Maharashtra and others	.. Respondents

Mr.Sagar Talekar i/b Mr.K.G.Rikame, for the Petitioner.

Ms.Nisha Mehra - Additional Government Pleader, for Respondent Nos.1 to 4.

Mr.C.G.Gavnekar, for Respondent No.6.

Mr.S.S.Deokar, for Respondent No.5.

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

Date : 17 July, 2019.

P.C. :

1. Heard learned counsel for the parties. Perused the Report submitted by the learned Civil Judge (J.D) Sudhagarh Pali appointed as the Court Commissioner by order dated 22 September 2016. The Report corroborates averments in the Public Interest

Litigation that while effecting construction on plot bearing City Survey No.1652 and 1781 a drain abutting the land has been partially encroached upon resulting in the width of the drain being reduced to nearly half. The Report brings out that the natural stream as it passes through the hamlet, has been channelised, resulting in the formation of a drainage. The photograph Exhibit 'B' shows that the offending construction is at a corner of two roads. Two huge pipes of approximately 4 feet diameter have been laid across one street for the water to pass under the street. The photograph shows that the building has covered a part of the drain blocking one huge pipe.

2. Learned counsel for Respondent No.6 states that the offending construction has been removed, a fact denied by the Counsel for the Petitioner.

3. There is an independent grievance of Respondent No.6 to the effect that the construction is without obtaining any sanction from the Town Planning Authority.

4. In view of the photograph filed with the Petition to which we have referred to and the Report of the Court Commissioner, we dispose of the Petition directing the Assistant Director of Town Planning Authority, District Raigad, to firstly ensure that the drain / *nallah* abutting the plot of Respondent No.6 is made free from encroachment. Secondly, he would pass necessary

orders if the construction made is contrary to the development norms i.e. covers area in excess of what is permissible. The unauthorised part of the building would be demolished. The officer shall comply with the mandamus within 12 weeks from today.

N.M.JAMDAR, J.

CHIEF JUSTICE