

WRIT PETITION NO.9241 OF 2018

Mr.K.P.Shah for the Petitioner.
Ms.K.N. Solunke AGP for the Respondent-State.
Mr.D.B.Khaire for Respondent Nos.3 and 6.
Mr.Amol Jagtap i/b Desai Legal for Respondent No.7.
Ms.Ujvala Karpe i/b V.S.Deokar for Respondent No.8.

DATE : 7TH NOVEMBER, 2019.

1] Heard learned counsel for the petitioner and Gram Panchayat, Gar Akole, Taluka Mahada, Solapur. The Gram Panchayat itself has constructed double storey structure within Canal thereby encroaching upon Government land. Though various authorities have asked it to remove the structure, Gram Panchayat has avoided to do so and proceeded to file civil suit.

2] Counsel for Gram Panchayat and Respondent No.5 - Chief Engineer, Bhima Vikas Vibhag, Solapur as also learned AGP for the State Government submit that construction is not within Canal. They submit that there was no Canal but it is distributary constructed as part of Irrigation project and on the bank of that distributary, said structure has been raised. According to the Chief Engineer, the structure is raised by

way of encroachment.

3] It is also pointed out to us that Civil Court has directed parties to maintain status quo and therefore notices issued to Gram Panchayat to remove that structure could not be implemented. The civil suit vide Regular Civil Suit No.28 of 2018 has been filed by Sarpanch in the Court of Civil Judge, Senior Division at Barshi. The present petitioner is not party to it.

4] However, the question whether structure has been raised in Canal thereby obstructing free flow of water in it or structure is itself on bank and Canal is not obstructed at all are all disputed questions of facts which can be looked into by the Civil Court. At this stage we are not inclined to resolve these issues.

5] We, therefore, direct Respondent No.7 to join the petitioner as party defendant no.8 in that suit. After the petitioner is so impleaded, he shall file necessary reply with documents. The trial Court shall after receipt thereof decide application for grant of temporary injunction within next eight weeks.

6] With these directions and keeping all contentions open, we dispose of the writ petition.

(S.S. JADHAV, J.)

(B. P. DHARMADHIKARI, J.)