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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 43 OF 2019

Shivram Janu Gaikar and ors.

..Petitioners

Vs.

State of Maharashtra and ors.

..Respondents

Mr. R. P. Lote for petitioners.

Ms. Nisha Mehra, AGP for respondent Nos.1 to 5.

Mr. A. S. Rao for respondent No.7.

Mr. R. S. Datar for respondent No.8

CORAM: PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.

APRIL 12, 2019.

P.C.

1. We have heard learned counsel for the parties.
2. The grievance of the petitioners is that they own agricultural land and have their residence in villages Golivali and Dawdi. It is pleaded that respondent No.8 has purchased agricultural land in the two villages. It is pleaded that the land

which respondent No.8 has purchased is being barricaded by iron/plastic sheets. It is pleaded that at some places respondent No. 8 has levelled the land, which in turn has adversely affected the flow of water to the neighbouring land. It is pleaded that the barricading is not only to enclose the land of respondent No.8 but extends to causing obstruction on the village roads.

3. No particulars of the land purchased by respondent No.8 has been disclosed. The village map has not been filed to show the village roads.

4. The photographs filed with the Public Interest Petition are suggestive of the fact that certain fields do not have access through roads and easementary rights exist in the owners of said land.

5. In our opinion questions of fact arise for consideration and would require evidence to be led. The remedy of the petitioners is to file a Civil Suit.

6. At this stage learned counsel for the respondents inform that the two villagers have filed Civil Suits. Counsel for the petitioners states that those two persons are not petitioners herein.

7. In view of the facts pleaded in the Public Interest Petition, a Civil Suit would be the appropriate remedy.

8. Relegating the petitioners to the remedy of a Civil Suit, we terminate the proceedings in the Public Interest Petition.

9. If the petitioners file Civil Suit, the learned Judge seized of the Suit shall decide the same uninfluenced by the present order for the reasons we have not adjudicated the issue on merits. The facts noted are to highlight that the dispute is of civil nature.

10. No costs.

N. M. JAMDAR, J.

CHIEF JUSTICE