

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
PUBLIC INTEREST LITIGATION NO.07 OF 2016

Suresh s/o Mohan Bhujadi

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.P.P.Mandlik, advocate holding for Mr.Amol S. Gandhi, advocate for the petitioner.

Mr.S.B.Yawalkar, AGP for Respondents No.1 to 4 & 8.

WITH
CIVIL APPLICATION NO.1982 OF 2016

Maharashtra Rajya Sarva Shramik
Sangh

Applicant

Versus

Suresh s/o Mohan Bhujadi & others

Respondents

Mr.S.T.Shelke, advocate for the applicant.

WITH
PUBLIC INTEREST LITIGATION NO.92 OF 2016

Maharashtra Rajya Sarva Shramik
Sangh

Petitioner

Versus

The State of Maharashtra & others

Respondents

Mr.S.T.Shelke, advocate for the petitioner.

Mr.S.B.Yawalkar, AGP for Respondents No.1 to 9.

Mr.R.V.Naiknavare, advocate for Respondent No.10.

**CORAM : Z.A.HAQ AND
S.M.GAVHANE, J J.**

DATE : 26th February, 2020.

P.C. :

1 These two petitions, registered as Public Interest Litigations, are disposed of by common judgment as the subject matter of both these petitions is same, though reliefs sought in both these petitions run counter to each other.

2 In PIL No.07/2016, the contention of the petitioner is that in spite of issuance of notices by the Deputy Executive Engineer, Ahmednagar Irrigation Department, Ahmednagar asking the encroachers to remove the encroachment, further action is not taken in the matter. According to the petitioner, the land, on which the encroachers are squatting, is Government land.

3 PIL No.92/2016 is filed by an Association which claims that it is registered. In this petition, directions are sought against the concerned authorities to implement the housing scheme for urban poor as per the Government Resolutions dated 4th April, 2002, 25th June, 2017, 1st January, 2010, 14th March, 2011 and 9th December, 2015, placed on record at Exhibits "A" to "F" and the Government Resolution dated 6th March, 2019, at Exhibit "P-3".

Interim relief is sought restraining the eviction of the respondents from the slum areas like Malharwadi, etc., situated within the limits of Municipal Council Rahuri, District Ahmednagar.

4 After hearing learned advocates for the respective parties and examining the relevant facts, we are of the view that the grievance, as made in PIL No.92/2016, cannot be entertained and examined at the behest of the Association - Maharashtra Rajya Sarva Shramik Sangh. If at all the individuals have any grievance, they can seek redressal of their grievance from the appropriate authority or even from this Court.

5 Though the learned advocate for the petitioner-Sangh persuaded us to examine the matter in the light of the Government Resolutions placed on record of the Public Interest Litigation, we are not inclined to examine the merits of the matter at the behest of the Sangh. Hence, without delving into the merits of the matter and keeping the issues raised in the petition open, PIL No.92/2016 is dismissed. In the circumstances, parties to bear their own costs.

6 As far as PIL No.07/2016 is concerned, the

respondents have not been able to justify the inaction on their part in taking the action as per the notices issued to the alleged encroachers. The Respondents have not produced any order of any Court or the competent authority which restrained them from taking action as per the notices issued to the alleged encroachers. Hence, we see no impediment in issuing directions to the Respondents. However, we feel it necessary to grant some protection to the alleged encroachers, on whose behalf Public Interest Litigation No.92/2016 was filed by the Sangh, to enable those persons (alleged encroachers) to move the Court or the competent authority in the matter

7 Hence, following order in PIL No.07/2016:

[i] If there is no legal impediment and any interim order is not produced protecting the alleged encroachers, the respondents shall take action as per the notices issued to the alleged encroachers on 23.02.2016, but the action shall be taken after 01st May, 2020.

[ii] If there is no legal impediment and any order, protecting the alleged encroachers, is not produced, the action shall be completed by the respondents till 6th June, 2020.

[iii] While disposing PIL No.92/2016, we have already granted opportunity to the alleged encroachers to move the Court or the competent authority to substantiate their rights/claims and it is clarified that we have not delved into the issues relating to the rights/claims of the alleged encroachers.

[iv] Public Interest Litigation No.07/2016 is disposed in the above terms. In the circumstances, the parties to bear their own costs.

8 In view of disposal of Public Interest Litigations, Civil Application No.1982 OF 2016 does not survive and stands disposed of.

S.M.GAVHANE
JUDGE
adb

Z.A.HAQ
JUDGE