

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

PUBLIC INTEREST LITIGATION NO.35 OF 2021

Valmik S/o Pandharinath Wakcharue & Anr.
..PETITIONER

Versus

The State of Maharashtra & Ors. ..RESPONDENTS

**WITH
CIVIL APPLICATION NO.7732 OF 2021
IN
PUBLIC INTEREST LITIGATION NO.35 OF 2021**

Rajendra Ratan Thete and Ors. ..APPLICANTS

Versus

Walmik Pandharinath Waghcaure ..RESPONDENTS

...

Mr. R. G. Ambetkar, Advocate for the Petitioners.
Mr. P. K. Lakhotiya, AGP for Respondents-State.
Mr. N. V. Gaware, Advocate for Applicants in CA.

...

**WITH
WRIT PETITION NO.6487 OF 2021**

Kailas Chandrabhan Waman and Ors. ..PETITIONERS

Versus

The State of Maharashtra and Ors. ..RESPONDENTS

**WITH
WRIT PETITION NO.6488 OF 2021**

Ganesh Dilip Nehe and Ors. ..PETITIONERS

Versus

The State of Maharashtra and Ors. ..RESPONDENTS

WITH

WRIT PETITION NO.6489 OF 2021

Ranjandas Karbhari Wackchaure and Ors...PETITIONERS

Versus

The State of Maharashtra and Ors. ..RESPONDENTS

WITH

WRIT PETITION NO.6490 OF 2021

Ashok Raghu Nehe and Ors. ..PETITIONERS

Versus

The State of Maharashtra and Ors. ..RESPONDENTS

WITH

WRIT PETITION NO.8188 OF 2021

Shivaji Bakru Nehe and Ors. ..PETITIONERS

Versus

The State of Maharashtra and Ors. ..RESPONDENTS

...

Mr. N. V. Gaware, Advocate for the Petitioners.

Mr. P. K. Lakhotiya, AGP for Respondent Nos.1 to 3,
5 and 6.

...

**CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

Closed for Orders on : 01.10.2021.

Order Pronounced on : 29.10.2021

JUDGMENT (Per S. V. Gangapurwala, J.) :-

1. All these matters are based on similar set of facts, as such are decided by a common judgment.

2. Public Interest Litigation No.35 of 2021 is filed seeking directions against respondents-

authorities to remove the encroachments over the public property that is gairan land and public way bearing Gut No.447 and 448 at village Dhondewadi, Post Jawalke, Tq. Kopargaon, Dist. Ahmednagar. The Writ Petitions are filed challenging the communication issued by the Sub Divisional Officer, Tahsildar and Block Development Officer directing the demolition/removal of 51 structures from Gut No.447 of village Dhondewadi.

3. The petitioners in Public Interest Litigation No.35 of 2021 had earlier filed Public Interest Litigation No.5 of 2018 before this Court. The said Public Interest Litigation and another Writ Petition No.9199 of 2018 was disposed of by issuing directions to Collector, Dist. Ahmednagar to decide the representation of petitioners as expeditiously as possible and preferably within sixteen weeks from the date of order after extending opportunity of hearing to the parties. The Collector, Ahmednagar partly allowed the application filed by petitioners under order dated 14.06.2019 and directed the Sub Divisional Officer, Shirdi to take steps as per Government Resolution dated 16.02.2018 and submit detail report of enquiry. The Tahsildar, Kopargaon under communication dated 14.01.2020 communicated to the Sub Divisional Officer, Shirdi that as per the measurement and the records with Grampanchayat and Revenue Department, 90 encroachments in Gut No.447 and 448 at village Dhondewadi are found which are

not eligible for regularization as per Government policy and Act. On or about 23.01.2020, the report is submitted by the Block Development Officer of Panchayat Samiti, Kopargaon about encroachments in Gut No.447 and 448 at village Dhondewadi. According to the petitioners in Public Interest Litigation, though, the report is submitted, no steps are undertaken for removal of the encroachments from the gairan land and the public way.

4. After filing of the Public Interest Litigation No.35 of 2021, respondent no.4 issued communication on 08.01.2021 to Tahsildar and Block Development Officer to undertake demolition/removal of 51 structures from Gut No.447 and 45 structures from Gut No.448 of village Dhondewadi. The petitioners in all these writ petitions challenged the said communication.

5. According to Mr. Ambetkar, learned counsel for the petitioners in Public Interest Litigation, the encroachments of these respondents is writ large. 51 persons have encroached in land Gut No.447. The said encroachments deserves to be removed immediately and in Gut No.448, 45 persons have encroached illegally on the gairan land. The encroachments on the gairan land cannot be regularized. Reliance is placed on the Government Resolution dated 12.07.2011 and also the judgment of the Apex Court in **Civil Appeal No.1132 of 2011**

decided on 28.01.2011 in a case of **Jagpal Singh and Ors. Vs. State of Punjab and Ors.** The learned counsel further submits that, all persons who have encroached upon have their own houses in the same village, still have committed encroachments and are seeking regularization, the same are not permissible. The chart given by the Government is correct.

6. Mr. Gaware, learned counsel for petitioners in writ petitions submits that, the impugned orders directing that, the structures of petitioners be removed is illegal and is passed without adhering to the principles of natural justice. The petitioners were not noticed while issuing the said communication. The stand of petitioners was not invited. The petitioners would have been in a position to substantiate that their encroachments are not illegal. Now some of them are shown to be given benefits of Gharkul Yojna. The same is given to the another person in the family. The land owned by the independent family members cannot be considered, as the land of petitioners. All these aspects could have been pointed out by petitioners, had authorities given opportunity to the petitioners to put forth their case. As the principles of natural justice are violated, the impugned orders are bad in law. The learned counsel further submits that, these persons having their structures on the lands are poor persons. They will not have roof over their head,

if the structures are removed. According to the learned counsel, proper procedure is required to be followed before passing orders for removal and other alternate accommodation be provided before eviction. The learned counsel relies on the judgment of the Apex Court in a case of **Olga Tellis and Ors. Vs. Bombay Municipal Corporation and Others** reported in 1986 AIR (SC) 180. The learned counsel submits that, the decision making process has to be fair and transparent. Only because some persons filed Public Interest Litigation that should not be a ground to evict petitioners. The petitioners' possessions are required to be regularized as per the policy of the Government. Some persons if they have been granted benefits under the Gharkul Yojna, even, the same cannot be a yardstick to label that all the persons are not entitled for benefits of regularization. The learned counsel relies on the judgment of the Apex Court in a case of **Onkar Lal Bajaj and Others Vs. Union of India and Another** reported in (2003) 2 SCC 673. The learned counsel submits that, the civil rights are adversely affected. The principle of *audi alteram partem* has to be followed as a Rule. The learned counsel relies on the judgment of the Apex Court in a case of **Mohinder Singh Gill Vs. Chief Election Commissioner, New Delhi** reported in 1978 AIR (SC) 851.

7. The learned A.G.P. submits that, after the order was passed by this Court in Public Interest

Litigation No.5 of 2018 alongwith companion matters and Writ Petition No.9199/2018 dated 01.11.2018, the office of Collector has given the detailed hearing to all the concerned parties who were parties before this Court. The respondent no.2-Collector also called the reports from the subordinate Government Officers in respect of the subject matters that is encroachments over the Government Land in Gut No.447 and 448 of village Dhondewadi. All petitioners herein were represented and filed their say through Mr. Nehe and after detailed enquiry and after giving the full consideration to all the reply and say filed by the concerned departments, the Collector passed an order on 14.06.2019. It is found that, some of the encroachments are required to be regularized as per the guidelines enumerated in the Government Resolution dated 16.02.2018 and some of the orders were passed to remove the encroachments of the persons not eligible for regularization. The same was done after verifying the reports from the Tahsildar and the Block Development Officer. The physical survey was done by the Talathi, Gramsevak of Gut No.447 and 448 and the report was prepared and submitted to the Committee. The Committee after going through the entire record found that, in Gut No.447, 7 persons are entitled for regularization and remaining encroachers have alternate lands and still they have encroached on Government land, so also in Gut No.448 not a single person is entitled for regularization, more

importantly 20 encroachments are found for the business purpose and residential purpose and those were done after 2011. They are not fit for regularization. No action was taken because the pandemic situation was arisen. After the ease in the pandemic situation, the further process is done. The learned A.G.P. further submits that, in Gut No.447, 60 encroachments are held not entitled for regularization and in Gut No.448, 69 encroachments are not entitled for regularization. It is incorrect to say that, no notices were issued to petitioners. The Grampanchayat, Dhondewadi already issued notices for removal of encroachments after the order was passed by the Collector. The learned A.G.P. relies on the chart submitted by him.

8. We have considered the submissions canvased by the learned counsel for parties.

9. The petitioners in writ petitions do not dispute that, they are the encroachers over the gairan lands bearing Gut No.447 and 448 at village Dhondewadi. The prima donna contention is that, principle of natural justice has not been followed.

10. Some of the persons had also earlier filed writ petitions. Notices were given to them. It would appear that, say was also filed by some of the petitioners. The say appears to have been filed in the representative capacity. The

committee was constituted at the level of Sub Divisional Officer. The detailed enquiry was made about the encroachers and whether they are entitled for regularization. The order is passed for removal of persons who have encroached on the gairan land and not entitled for regularization. It also appears that, say was filed by one person in representative capacity. The fact remains that, these are the persons who have been given benefits under the various public schemes, such as, Gharkul Yojna. In some cases, the husband has been granted land and the benefit under the Gharkul Yojna and encroachment on the gairan land is made in the name of wife. In some cases, the benefit of the Gharkul Yojna is given in the name of son and the mother is encroacher on the gairan land. In some cases, the person himself is granted benefit under the Gharkul Yojna and has house constructed, still has encroached upon the gairan land. The detailed chart is filed by the State Government clarifying as to how these encroachments on the gairan land are not entitled for regularization. The said chart is in regional language. It is reproduced as under:

मौजे धोडेवाडी येथील गट नं. ४४७ (गुरेचारणीकडे) मधील सन २०१०-११ पूर्वी केलेल्या अतिक्रमणधारकांची यादी

198

अ.न.	अतिक्रमण धारकाचे नाव	मिळकत नं.	वर्ष-2010-11 पूर्वी केलेले अतिक्रमण क्षेत्र(वौ.फु.)	12/12/2019 रोजी मोकळ्या जमिनीसह अतिक्रमण केलेले क्षेत्र	इकना नं.5 पैकी बांधकाम केलेले अतिक्रमण क्षेत्र(दिनांक १२/१२/२०१९)	अतिक्रमण धारक रकस अतिक्रमण केलेल्या जागेव्यतिरिक्त स्व मालकीची जागा गावठाणात आहे काय	गावठाण घेईल गावठाण बाहेरील मिळकत नं.	गावठाणातील व गावठाण बाहेरील क्षेत्र (वौ.फुट)	गावठाण बाहेर स्व मालकीची जमीन /घर आहे काय असल्यास सर्वे नं.	गावठाण बाहेर स्व मालकीची जमीन /घर आहे काय असल्यास किती (हे.आर.)	नियमानुसूल करग्यास पात्र/अपात्र	क्षेत्र	
1	2	3	4	5	6 निगासी	7 प्रमाणित	8	9	10	11	12	13	14
1	भाऊसाहेब नाना दरेकर	179	29°32=870	46°02=2760	50.8°22.3=1128.38 22.8°19=433.2		अडे	52	110	10,354,401	1.62	अपात्र	-
2	सुनंदा बाबासाहेब नेहे	190	20°20=400	87°91=7917	38.2°15.6=555.92		अडे	71	150=272	242	1.17	अपात्र	धनुस २०१६-१७ होत बांधकाम
3	भालेशव दत्त कारभारी	182,182.10	15.6°14.8=230.88 24°16=384	81°58=5508	418°25.2=1053.3 23.8°25.2=589.76		नाही	नाही	नाही	नाही	नाही	अपात्र	धनुस २००९-१०, धनुसमार्फत गट नं.४४८ मध्ये जाण दिलेली आहे परंतु जाव देवी घर जमिनी धनुस बांधकाम दिवत नाही.
4	नेहे गंगुबाई परशुराम	183	13°16=208	69°85=5852	23°15=345 23°15=345		नाही	नाही	नाही	213,364,354	1.76	अपात्र	मुलाचे नावे धनुस अनुसूच्याचे नावे क्षेत्र आहे.
5	नेहे मनसुब कोडाली	184.00	15°25=375	40°83=3720	36.4°16.3=593.32		नाही	नाही	नाही	364	2.39	अपात्र	मवा
6	नेहे जिजाबाई मनसुब	184.1	20°25=500	28°83=2804	22.4°10.3=365.12		नाही	नाही	नाही	364	2.39	अपात्र	पतीच्या नावे क्षेत्र

7	દોરકર દત્ત મોદુનાના	195.205	30°10'300 20°14'280 18°16'288	37.5°15'2812.5	25.5°43.7'1114.35 28°12'336	8°15'120	નહી	નહી	નહી	11,384,385,405	1.81	અચર	નવી સપાઈક કેર સરકુલ ૨૦૦૪-૦૫
8	વિનકલ મધુનાના દોરકર	206	17°18'306	115°171'8155	31.10°43.08=1362.18	8°15'120	નહી	45	180	11,384,385,405	1.81	અચર	સપાઈક
9	રાજેન્દ્ર રતન થેટે	207.298	17°23.8'404.8 22°17'374	50°50'2500	24.10°17.3'416.83 25.6°26.3'673.28		નહી	નહી	નહી	182	1.09	અચર	
10	રવિદ્ર રામનાથ દોરકર	209	39.10°27'409.53	80°91'6279	39.10°27.3'1057.43		નહી	નહી	નહી	નહી	નહી	અચર	બહેલમથ નહે ૦.૭૭
11	અશોક રતન થેટે			50°50'2500	25.10°26.3'680.13		નહી	નહી	નહી	182	1.16	અચર	
12	લહાનબાઈ સાહેબરાવ દોરકર	210	14°15.8'221.2	91°50'5460	15°31'465 20°30'630		નહી	નહી	નહી	61	0.20	અચર	સરકુલ ૧૮ નં. ૪૪૭ સિવામી જગ
13	ધિરુલ સાહેબરાવ દોરકર	211	24°16'384	91°50'5460	28.7°31'889.7 32°31'492		નહી	નહી	નહી	338,383	1.01	અચર	સપાઈક ક્ષેત્ર ૧.૦૧
14	ચિંતામ્ના કારખાઈ ખાલેરાવ	211.1	20°15'300	27°90'2430			નહી	નહી	નહી	નહી	નહી	અચર	અન્ને પાસે અનુદાન ૨૦૦૪-૦૫, યા પહેલે અને સિવામી જગ
15	ખાનુદાસ કુંડલિક દોરકર	212	7.5°22.8'171	123°54'7872	14.8°53'773.6		નહી	નહી	નહી	251	1.29	અચર	સરકુલ ૨૦૧૬-૧૭ કેટલ રાજકમ
16	વિનલ રામદાસ દોરકર	212.1	7.5°22.8'171	123°54'7872	39.7°25'787.5		નહી	નહી	નહી	341	0.81	અચર	સરકુલ ૨૦૧૬-૧૭ કેટલ રાજકમ
17	રતનાથ માધવ ખાલેરાવ	213.214	27°14.6'394.2 14°26'080	123°55'8125	27°15'030		નહી	314	555	258	1.16	અચર	સન ૨૦૧૨-૧૩ સરકુલ નામદાવ હોટ ચાંગલમ
18	આપ્પાસાહેબ પુંગાહારી નેહે	215	18.8°15'287	63°45'2835		33.6°22'738.2	નહી	નહી	નહી	212/1	0.89	અચર	
19	કિશોર પુંગાહારી નેહે	216	23°15'345	63°40'2820	27.8°23'634.8 11°17.2'182.2		નહી	નહી	નહી	212/1, 212/2	0.89	અચર	
20	સંજય બબ્લ થેટે	217	21°22'482	100°35'3500	54.4°25.5'1387.2		નહી	નહી	નહી	182	1.09	અચર	
21	બાપુ બબ્લ થેટે	218	15°22.8'339	68°36'2464	24.10°36'867.6		નહી	નહી	નહી	182	1.2	અચર	સરકુલ ૨૦૦૩-૦૪ કેટલ રાજકમ
22	મિનાબાઈ બાલાસાહેબ મેઠ	251	34°18'612	38°14'632	14°27'578		નહી	નહી	નહી	16	0.40	અચર	
23	રામરાવ નામદેવ મેઠ	282	18°14'282	38°28'1064	14°27'578		નહી	નહી	નહી	નહી	નહી	અચર	સરકુલ ૨૦૦૩-૦૪ પરુ સપાઈક ક્ષેત્ર

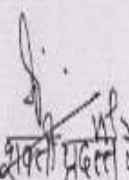
200

24	लहानबाई करमारी काढेकर	233,234	15°20=390 15°10.5=159	69°59=4071	42.9°27.8 53.9°14.2=765.38		नही	गहो	नही	367	1.59	अपरा	राजपूत शेव
25	ममल सावली गवामे			10.6°10=106		10.6°10=106	नही	गहो	नही	244	0.22	अपरा	अपरापूर कावे शेव
26	रंजनदास करमारी बाकवीर	235	14.8°30=	38°74=2812	30.8°23.7=725.22		अहे	64	248	नही	1.81	राजपूत	अपरा
27	बन करमारी बाकवीर	235.1	21°21=441 17°35=585	38°74=2812	45.6°13.9=633.84	20.5°21.5=442.8	अहे	64	248	नही	1.81	राजपूत	अपरा
28	कैलास चंद्रमान वामन			20°70=1400	10.2°14.2=144.54		अहे	82	108	64	0.97	अपरा	-
29	जयदास चंद्रमान वामन			20°70=1400	10°10=100		अहे	83	108	38/1,39/2	1.1	अपरा	-
30	कल्याण चंद्रमान वामन			20°70=1400			नही	गहो	नही	59	2.05	अपरा	पुस्तक 2012-13 शेवत शेवत का नं. 18
31	मंजुळबाई चंद्रमान वामन	236	18°20=448	20°70=1400			नही	गहो	नही	नही	नही	अपरा	अपरा
32	कल्पना दाभाडे			20°70=1400			नही	गहो	नही	नही	नही	अपरा	गहोबाई
33	संजय निवृत्ती नेहे	237,238	18°20=320 12°15.6=187.2	38°100=3800	15.4°14=229.6		अहे	नही	नही	334,440	0.53	अपरा	पुस्तक 2012- 13, शेवत बांधकाम
34	गोरोनाथ निवृत्ती नेहे	239	12°15.6=187.2	38°100=3800	15.4°14=229.6		अहे	124	529	440	0.31	अपरा	-
35	पंडरीनाथ निवृत्ती नेहे	240	12°15.6=187.2	38°33=1254	41°20.3=1225.3		नही	नही	नही	253,442	0.41	अपरा	-
36	बाळासाहेब करमारी चालेख	250	30°18=540	31°70=2170	29°16.7=494.3		नही	गहो	नही	नही	नही	अपरा	-
37	दिनेकर मधुनाथ देशेकर	252	12°12=144	115°71=6163	15°15=225		नही	गहो	नही	11,384,385,405	1.81	अपरा	-
38	गणेश पंडरीनाथ नेहे			38°33=1254	41°21.2=899.2	2°11=99	नही	गहो	नही	351,259	0.72	अपरा	-
39	भास्कर साखारवी नेहे			32°00=2876	15°28=420		नही	नही	नही	200/2	0.28	अपरा	-
40	दिनेश भाऊसाहेब नेहे		15°29.6=444	32°00=2876	15°28=420		अहे	95	330	200/1	0.27	अपरा	-
41	मिलिंद भिकाजी नेहे			32°00=2876	15°28=420		नही	नही	नही	260/3	0.27	अपरा	-
42	भास्कर निवृत्ती नेहे	241	25°15.6=187.2	38°100=3800	15.4°14=229.6		अहे	30	90	253,260,353,432	1.05	अपरा	-
43	यशवंता त्रिंबक नेहे	242,242.1	15°12=480 30°18=540	81°54=4374	18°31=558	21.3°21=447	नही	गहो	गहो	334	1	अपरा	-
44	गणेश दादासाहेब फकि	257	33°33=1009	33°33=1009			नही	नही	नही	21	0.72	अपरा	शेवत कावे शेव
45	आप्पासाहेब नामा नेहे	260	28°16=448 4°4=16	115°70=6740	32.9°16=526.4 10°12=120		नही	गहो	नही	नही	नही	अपरा	पुस्तक ताम

46	सुरक्षा	243	19'26=504	18'28=504	18'28=504	नहीं	नहीं	नहीं	नहीं	नहीं	पत्र	
47	सुरक्षा			133'114=15162	135'114=15162	नहीं	नहीं	नहीं	नहीं	नहीं	पत्र	
48	सिद्धि गवकृष्ण विवरण			25.4'11=279.4	25.4'11=279.4	नहीं	315	2500	82	0.13	अन्य	गवकृष्ण विवरण
49	सुरक्षा गवकृष्ण विवरण	244 246	23'25 घंटा 9 मिनट 18'22 से		14.2'19.5=274.5 106.2'27.2=1069.04 10'13.2=250.8 18.4'11=213.4 10'10'10.10=102.01 13'10.7=136.1 111.5'28.2=1144.3 128'21.5=2173.5 60'8'=5346	नहीं	नहीं	नहीं	नहीं			
50	सुरक्षा गवकृष्ण विवरण				28.5'14.5=427.75	अन्य	141.3	245	38	0.81	अन्य	
51	सुरक्षा गवकृष्ण विवरण										पत्र	


 गट विकास अधिकारी(स.श्रेणी)
 पंचायत समिति, कोपरागांव


 तहसीलदार कोपरागांव


 प्रमुख अधिकारी प्रदत्त समिति
 तथा
 उपविभागीय अधिकारी
 शिर्डी भग शिर्डी

किए
 25/02

मौजे घोडेवाडी गट नं. ४४७ येथील नमुना नं. ८ (मालमत्ता रजिस्टर) नोंदी नसलेल्या अतिक्रमण धारकांची यादी

अ.क्र.	अतिक्रमण धारकाचे नाव	मालमत्तेचा प्रकार	निलंबित करण्यास तारखेचा
१	गणेश पंढरीनाथ नेहे	पत्रा शेड	अपात्र
२	विमल रामदास दरेकर	इमारत बांधकाम	अपात्र
३	विठ्ठल साहेबराव दरेकर	पत्रा शेड	अपात्र
४	विस्न कारबारी काडेकर	पत्रा शेड	अपात्र
५	सुभाष कारबारी काडेकर	पत्रा इमारत बांधकाम	अपात्र
६	रंजनादास कारबारी बाकतीरे	पत्रा शेड	अपात्र
७	पंढरीनाथ निधुती नेहे	पत्रा शेड	अपात्र
८	भाऊसाहेब नाना दरेकर	पत्रा शेड	अपात्र
९	हिराबाई सोमनाथ थोरात	पत्रा शेड	अपात्र
१०	दत्तु मोघुनाना दरेकर	इमारत बांधकाम	अपात्र
११	बापु बबन धेडे	पत्रा बांधकाम	अपात्र
१२	आप्पासाहेब नाना नेहे	इमारत बांधकाम	अपात्र
१३	दत्तु कारबारी मालोराव	फौलार इमारत	अपात्र

202

गट विकास अधिकारी(उ.श्रेणी)
पंचायत समिती, कोपरगांव

तहसिलदार कोपरगांव

महेश्वरी शक्ती प्रपल्ल
समिती तथा

उपविभागीय अधिकारी
शिर्डी भाग शिर्डी

25/02

मौजे धोंडेवाडी येथील गट नं. ४४८ (खळेवाडी) मधील सन २०१०-११ पूर्वी केलेल्या अतिक्रमणधारकांची यादी

203

अ.नं.	अतिक्रमण धारकाचे नाव	मिळकत नं.	वर्ष-२०१०-११ पूर्वी केलेले अतिक्रमण क्षेत्राचे (फु.)	१२/१२/२०१९ रोजी मोकळ्या जागेसह अतिक्रमण केलेले क्षेत्र	रकाना नं.५ पैकी बांधकाम केलेले अतिक्रमण क्षेत्र (दिनांक १२/१२/२०१९)	अतिक्रमणधारकात अतिक्रमण केलेल्या जागेव्यतिरिक्त स्व मालकीची जागा गावठाणात आहे काय	गावठाणमधील लव गावठाण बाहेरील मिळकत नं.	गावठाणातील व गावठाण बाहेरील क्षेत्र (चौ.फुट)	गावठाण बाहेर स्व मालकीची जमीन / घर आहे काय असल्यास सर्वे नं.	गावठाण बाहेर स्व मालकीची जमीन / घर आहे काय असल्यास किती (हे.आर.)	निष्पत्ती कुल करम्या स फाउंडेशन पात्र	क्षेत्र	
१	२	३	४	५	६ मि.मी.	७ अ.मी.	८	९	१०	११	१२	१३	१४
१	गदाबाई बाबुराव पाडेकर	१७६	२०°३०'६००	२९°०५'१६६	२९°३०'६२५ १६.६°१७.७'२६३	२२°१२'०५४	अंश	५८	३६०	१९१	१.५६	अंश	-
२	केलस कारभारी कांडेकर	१७८	१९°१५'२६५	६२°५०'४१००	१४.२°१९.३'२७४.०६ १२°१४.१०'१६९.२	११°१५'१४३	नही	नही	नही	३६७	१.६६	अंश	जुलून वन २००८-०९, संपादन क्षेत्र
३	दरेकर रमेश मोधुनागा	१९६	२६.६°५०'९३१	७५°३०'२२.५०	३०.३°२२'६००.६	८°१५'१२०	नही	नही	नही	११,३८४,३०५,४०५	१.६१	अंश	रुईका क्षेत्र
४	रामपत श्रीपत नेहे	१८७,१८८	१५°१०.६'१५९ १७°१०'३०६	३२°५०'१६००	१७°२८'४७८ १५.५°३०.२'५९२.१		अंश	३४,३५,३०	१५०°१०१'१२०	४१०,४०७	०.६६	अंश	-
५	ज्ञानेश्वर राघू नेहे	१९०	१६.०°१५'२४९	२०°५०'१३००	३८.४°१२.५'४९२.५ २८.२°१६'४५१.२		नही	नही	नही	३२९	०.७८	अंश	-
६	ताराबाई ज्ञानेश्वर नेहे			४५°२८'१२००	२४.८°३०'७३८		नही	नही	नही	३२६२	१.५५	अंश	-
७	आय्यासाहेब पोपट नेहे	१९१	२०°१५'०००	१९°५०'७५०	१९°२०'४२०		अंश	१६	३००	नही	नही	अंश	जुलून २०१०-११ बांधकाम शाखेत
८	पोपट राघू नेहे	१९२,१९३	१५°२०'३०० १६°१५'२४०	१६.०°५०'६३०	२१°२८'५३८		अंश	३३	१५०	४१७	०.२६	अंश	-

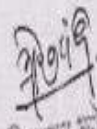
204

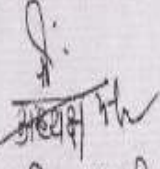
9	अशोक राधु नेहे	189.184.104	27°16.8=185.20 24.6°12=185.2 10°12=120	55°28=1540	35.11°34.10=1231 22°36=792	नही	नही	नही	417	0.25	असत	समईक क्षेत्र
10	विष्णु शिवाजी नेहे			25°22=572	12.5°19=237.5	नही	नही	नही	नही	नही	असत	
11	किरण शिवाजी नेहे			25°26=520	25.4°19=482.6	नही	नही	नही	नही	नही	असत	
12	श्याम शिवाजी नेहे			25°26=520	14.7°19=279.3	नही	नही	नही	नही	नही	असत	
13	लिला शिवाजी नेहे	195.1	12°15=180	11°14.3=157.3		अहे	36	102	नही	नही	असत	
14	रत्ननाथ कलभारी भारतेराव	196	24.9°17.8=207.25 20°25=500	31°70=2170	24.8°18.7=410.82 30°20=600	अहे	2	452	नही	नही	असत	
15	महेश्वर सावबेराव देकर	197	26°16=416	38°37=1406	33.2°24.7	नही	नही	नही	11,334,395,405	1.62	असत	
16	प्रमिला सुंदमान कोकर	198	23°15=345	38°55=2470	31.9°28.3=502.77 8°5=40	नही	नही	नही	11,334,395,405	1.61	असत	
17	देकर तालुबाई मोरुनाथ	199	21°14.5=308.6			अहे	24	216	नही	नही	असत	घडकुल 2012-13 घ.नं. 8342, लाभासी मध्य समईक क्षेत्र
18	सुभाष मणिराव देकर	200	13°15=195	67°54=4288	42°58=1566 40°13=520	अहे	73	400	316	1.61	असत	पेम्परा क्षेत्र
19	नेहे कविश सोपाळा	201	29.8°25.3=745.88 20°15=300			अहे	90	180+180	370,224	0.12,1.57	असत	घडकुल 2014-15 असत क्षेत्र कोरो, समईक क्षेत्र
20	नेहे प्रभुराम कविश			17°74=1258	37°54=516 14°24=136	नही	नही	नही	224	1.67	असत	असत क्षेत्र समईक क्षेत्र
21	समकृष्ण व दशरथ कविश नेहे	201.1	25.6°15.3=432.86	30°74=2220	14.8°15.9=232.14	नही	नही	नही	224	1.67	असत	असत क्षेत्र समईक क्षेत्र
22	संजय शंकर रहाणे	202	22.6°16.6=375.16	34°73=2462	39.1°17.3=678.43 11.6°17.3=200.63 8°10=40	नही	नही	नही	170,178	0.65	असत	समईक क्षेत्र
23	शिवाजी रामराव मंड, अमोल शिवाजी मंड	203	35°18=630 4°4=16	43°126=3418	20°15.10=302 18.6°15.10=280.98	नही	नही	नही	151,18	1.49	असत	

24	हिरवाई सोमनाथ थोरत	219	17°13.6=231.2	46°37=1702	34°24=016 30.5°10.8=426.6		नही	नही	नही	45.44	1.84	अपघ	अन्य पक्ष अनुदान 2008-09 बट नं. 222
25	माधव मुलीघर नेहे	220	24°15=360	44°20=1544	15°15.6=234 30°15.6=456		अहे	341	360	356	0.31	अपघ	एन 2012-13 घटकप्राप्तता होत
26	बादव मुलीघर नेहे	221	23°19=375	58°31=2148	32.1°21=174.1		अहे	178	500	412.430	0.2	अपघ	मुलीघर नेहे बैंगलघर 2012- 13 बांधकाम होत
27	नेहे गजेश दिलीप	222.8	7.5°15=112.5 20°13=300	7.0°14.2=107.62		7.0°14.2=107.62	नही	नही	नही	नही	नही	अपघ	
28	बाबसाहेब नाथव नेहे	2248.277.28	50°50=2510 10°12=	46°44=2024	26.6°32.5=940.94	15°17.5=112.5	नही	नही	नही	1341	1.29	अपघ	
			120 12°8=72 31°25=775	19°15=112.5 7.3°14.2=103.66		12°10=120							
29	किशोर पुंजाहरी नेहे	2224		9.3°27=251.1 9°10=90		9.3°27=251.1 9°10=90	नही	नही	नही	2121.2122	0.89	अपघ	
30	आप्पासाहेब पुंजाहरी नेहे	222.2		5.7°14.2=80.94 28.6°18.5=529.1		5.7°14.2=80.94 28.6°18.5=529.1	नही	नही	नही	2121	0.89	अपघ	
31	ज्ञानेश्वर पुंजाहरी नेहे	222.3		9.3°27=251.1 9°10=90		9.3°27=251.1 9°10=90	नही	नही	नही	2122	0.69	अपघ	
32	अलका कनिस्नाथ नेहे	224	14°28=302	20°73=1480	16°12.2=185.2 41.11°18.6=764.84	16°12=180	नही	नही	नही	131	1.6	अपघ	परीषद नही हे
33	सत्यभामा आर्याबा नेहे	225	50°39=1800 4°9=16	59°20=1180	23.9°33=186.4		नही	नही	नही	41	1.42	अपघ	.
34	रमेश जगदैन वाघ	226	15°25=435	25°14.8=955	25°14.5=955	10°10=100	नही	नही	नही	26	1	अपघ	बैंगल भयो वस्तु बांधकाम केले, 2009- 10, होवना नही हे
35	शिपाजी बाबकु नेहे	227.228	18°15=270 24°16=384	43.5°50=2175	26.9°25=747.5 12°5=60	16.8°15=282	नही	नही	नही	241	1.39	अपघ	बांधे वस्तु दिलेले अहे होवना नही हे पक्ष,

35	दिपक गंगाधर मैड			14°30'=840	13.1°32'=419.2		अहे	311	675	1702	1.06	अन	
37	गंगाधर नामदेव मैड	229	20°40'=800	13.10°30'=785	27.5°13.10'=980.25		नही	नही	नही	18	0.21	अन	जलकुल 2000- 08 फलीया नये क्षेत्र
38	भाऊसाहेब गंगाधर मैड	230	20°14'=280 50°13'=650	13.1°30'=383	27.5°13.10'=980.25		नही	नही	नही	425.6312	0.48	अन	
39	सिमा भाऊसाहेब मैड			13.1°30'=383	47°13.10'=815.7		नही	नही	नही	425.6312	0.48	अन	पलीया नये क्षेत्र
40	शिवाजी बाबुराव नेहे	186.201	40°25'=1000 15°10'=150				नही	नही	नही	329	0.77	अन	
41	सुभाष रामराव मैड	162	16°11'=154	38°28'=1004	27°26'=758	11°13'=143	नही	नही	नही	1211	1.05	अन	
42	तता साईनाथ नेहे	225.1	21°13'=273	21°24'=504 17°14'=238	21°24'=504	20°14'=280	नही	नही	नही	651	1.21	अन	पलीया नये क्षेत्र
43	बाबासाहेब अठ्ठाबा नेहे	165.2	21°13'=483	23.8°33'=755.4	21°33'=693	20°14'=280	अहे	नही	नही	421.44	1.86	अन	जलकुल 2012-13 न्यायप्रदाय संघर्ष
44	सुनिल लक्ष्मण शिंदे			16°15'=256		16°15'=256	नही	नही	नही	नही	नही	अन	बाहेलारी क्षेत्र मालडी 0 फलीया
45	गणपत तुकाराम नेहे	223,290	16°16'=256 20°30'=600	20°30'=600	20°30'=600	10°20'=200						अन	सम्यक् जंग
46	ज्ञानेश्वर विष्नाथ पन्हाळे					20°17.50'=350						अन	बाहेलारी क्षेत्र
47	कोल्हे जालिंश भगवत					11°10'=190	अहे	60	630	1,436	0.26	अन	बाहेलारी क्षेत्र
48	श्री.प.प्राणीपुखडा जंम पाण्याची टाकी											अन	


नट विकास अधिकारी (उ.श्रेणी)
पंचायत समिती, कोपरगांव


तहसिलदार कोपरगांव


क्षेत्रीय प्रवर्तक समिती
तथा
उपविभागीय अधिकारी
शिर्डी भाग शिर्डी

मौजे घोडेवाडी येथील गट नं. ४४८ गधील नमुना नं. ८ (मालमत्ता रजिस्टर) नोंदी नसलेल्या अतिक्रमण धारकांची यादी

अ.क्र.	अतिक्रमण धारकाचे नाव	मालमत्तेचा प्रकार	नियमानुसूल कल्प्यास पात्र/अपात्र
१	काणैमनाथ तुकाराम नेहे	२ गाळे	अपात्र
२	दत्त मोधुना ना दरेकर	१ गाळा	अपात्र
३	रमेश मोधुना ना दरेकर	१ गाळा	अपात्र
४	दिनकर मोधुना ना दरेकर	१ गाळा	अपात्र
५	अमोल सुर्यभान दरेकर	१ टपरी	अपात्र
६	मरिछंद सावळेराव दरेकर	रत्नेप इमारत	अपात्र
७	साईनाथ आल्याबा नेहे	पत्रा शेड २ गाळे	अपात्र
८	शिवाजी बारकु नेहे	रत्नेप इमारत	अपात्र
९	बाबासाहेब माधव नेहे	पत्रा शेड	अपात्र
१०	शिवाजी बाबुराव नेहे	पत्रा इमारत	अपात्र
११	स्थानी बाबुराव पाडेकर	पत्रा शेड १ गाळा	अपात्र
१२	केतास कारनारी काडेकर	२ गाळे	अपात्र
१३	राज्य शंकर रहाणे	पत्रा शेड	अपात्र
१४	सुभाष मरिछंद दरेकर	पत्रा शेड	अपात्र
१५	प्रभुराम फाकेरा नेहे	टपरी	अपात्र
१६	बाबासाहेब माधव नेहे	इमारत बांधकाम	अपात्र
१७	ज्ञानदेव राधुजी नेहे	पत्रा शेड	अपात्र
१८	सविन सुर्यभान दरेकर	इमारत बांधकाम	अपात्र
१९	लक्ष्मण कार्शनाथ धोरत	टपरी	अपात्र
२०	रमेश जनार्दन बाघ	टपरी	अपात्र
२१	भाऊसाहेब संपत कोल्हे	टपरी	अपात्र

207

गट विक्रीस अधिकारी(उ.श्रेणी)
पंचायत समिती, कोपरगांव

तहसिलदार कोपरगांव

उपविभागीय अधिकारी
शिर्डी भाग शिर्डी

11. We can understand the plight of persons who do not have roof over their head and order of removal of encroachments is passed against him, but here are the persons who have been given the benefit of public schemes of Government, such as Gharkul Yojna and have again caused encroachments on the gairan land. Such persons cannot be protected. The detailed survey seems to have been made by the Committee and thereafter, the conclusion has been drawn. The documents are also relied by the authorities. The chart given provides for the details as to how these persons are not entitled for regularization. These are the persons who either are given benefits under the scheme and still have encroached on the gairan land and/or some already have their houses and still structures are erected by committing encroachments. Some of the persons have started commercial activity. The details have been given in the affidavit-in-reply. Certainly for commercial purpose, the same would not be permissible. Even after the order is passed by the Collector holding that as per Government Resolution dated 16.02.2018, the persons are not entitled for regularization two years have lapsed. The measurement was already carried out by TILR. The boundaries are demarcated. Initially, the Committee of Sub Divisional Officer, Tahsildar and Block Development Officer has called a report from concerned Block Development Officer of Panchayat Samiti. The Committee with the help of Talathi and Gramsevak

carried out physical survey of all the encroachments in Gut No.447 and 448. They identified the exact encroachments and the reasons of the encroachments and they submitted the report. There were very few encroachments in Gut No.447 who are entitled for regularization and their cases has been considered positively. Some of the encroachers have alternate lands, still have encroached on Government land. The 7/12 extracts supports the stand of the Government. In Gut No.448 out of 45 encroachments, 20 encroachments are found to be for business purpose and those were after 2011. If the encroachments are after 2011, they cannot be regularized even as per Government Resolution dated 16.02.2018. Earlier some of the encroachers had filed writ petitions. The writ petitions were disposed of directing the Collector to conduct enquiry and consider the stand and now some other persons are filing writ petitions.

12. The gairan land cannot be used for business purpose. The Government comes out with the laudable policy to regularize the encroachments of the needy persons and who may not have roof on their head or it is essential for the livelihood to qualify the encroachment land. In the present case, petitioners who have encroached upon the gairan land, possess and own the agriculture lands. They possess structures in their own agriculture lands. Some of them or their family members have been granted benefits of Gharukul Yojna i.e. the

Government Scheme for construction of house and still encroached on the gairan land and some of them have carried out commercial activities on the encroachments made on the gairan land. Such encroachments cannot be protected. The Court would not come to the aid of such persons. In case of **Olga Tellis and Ors. Vs. Bombay Municipal Corporation and Others** (Supra) the persons affected by the demolition notice / eviction notice were the pavement dwellers and were to be deprived of their livelihood and life. In the present case, situation is otherwise. These persons have alternate accommodation. They owned the agriculture lands. They are given benefits of Gharkul Yojna that is the Government Scheme, inspite of that, are maintaining encroachments on the gairan lands. They cannot be granted protection by invoking our writ jurisdiction under Article 226 of the Constitution of India. The gairan lands are not meant for indiscriminate encroachments. The Apex Court in a case of **Jagpal Singh and Ors. Vs. State of Punjab and Ors.** (supra) had observed that, encroachments on the gairan lands are to be removed and should not be permitted. Pursuant to the judgment of the Apex Court in a case of **Jagpal Singh and Ors. Vs. State of Punjab and Ors.** the Government Resolution dated 12.07.2011 has been issued.

13. Considering the above, we cannot come to the aid of petitioners in these writ petitions.

The Government Authorities may proceed further pursuant to their communications for removal of illegal encroachments and encroachments of those persons whose encroachments cannot be regularized.

14. The petitioners in writ petitions may remove their encroachments from Gut No.447 and 448 at village Dhondewadi within a period of one month. In case, these petitioners do not remove the encroachments within a period of one month, then respondent-authorities may proceed further for removal of encroachments.

15. With the aforesaid observations and directions, the Public Interest Litigation and Writ Petitions stand disposed of. No costs.

16. In view of disposal of Public Interest Litigation No.35 of 2021, present Civil Application No.7732 of 2021 stands disposed of.

(R. N. LADDHA)
JUDGE

(S. V. GANGAPURWALA)
JUDGE