

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

962 WRIT PETITION NO.7131 OF 2021

SADASHIV PANDURANG CHAUDHARI

.. Petitioner

VERSUS

THE STATE OF MAHARASHTRA

THR ITS SECRETARY AND ANOTHER

.. Respondents

...

Advocate for the Petitioner : Mr S.V. Dixit

Addl. G.P. for the Respondent / State : Mr P.S. Patil

....

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

DATE : 30-06-2021

PER COURT : -

1. The learned Counsel Mr Dixit submits that, the petitioner is the owner of the writ land under registered sale deed dated 24-10-2017. The layout plan is also sanctioned. The petitioner also paid non-agricultural charges. The impugned notice does not suggest the area of encroachment and the same is vague. A Section Officer does not have the authority to issue such a notice. The notice is *void ab initio*. The name of the petitioner appears in the 7/12 extract and also in the form 8-A.

2. The impugned notice suggests that, if the encroachment is made on the canal the same shall be removed, else the legal action

would be taken.

3. In the writ petition, we cannot ascertain that an encroachment exists or not. The petitioner may be in a position to demonstrate his ownership over the property he has purchased. However, whether there is any construction made in the prohibited zone of the canal or otherwise cannot be judged in the writ jurisdiction.

4. The petitioner is required to prove that he is occupying the portion that he has purchased and within the boundaries as delineated in the registered instrument.

5. In the light of that, we are not inclined to exercise our writ jurisdiction under Article 226 of the Constitution of India. The petitioner may have recourse to any alternate remedy as may be permissible under law.

6. Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

...