

(1)

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

21 WRIT PETITION NO.10572 OF 2018

**DIVAN ARJUN CHAVAN AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...

Mr S. U. Chaudhari, Advocate for petitioners;
Mr S. B. Pulkundwar, A.G.P. for respondent Nos.1 to 3/State;
Mr N. N. Desale, Advocate for respondent No.4;
Smt. Vaishali D. Jadhav Patil, Advocate for respondent No.5

**CORAM : RAVINDRA V. GHUGE
AND
AVINASH G. GHAROTE, JJ.**

DATE : 21st June, 2021

PER COURT:

1. The petitioners have put forth prayer clauses 'A' and 'B' as under :

“A] The Hon’ble High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ and thereby direct the respondents to remove the illegal construction and encroachment made by the respondents on the main Avdhan Road upon survey no.63 of Laling Shivar.

B] The Hon’ble High Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of writ and thereby direct the Respondents to remove obstructions on the agriculture land Gut No.63 of the Laling Shivar of petitioner No.1.”

(2)

2. It is the contention of the petitioners that 15 houses have been constructed by the Gram Panchayat, Avdhan under the 'Gharkul Yojana' scheme, by encroaching of the Avdhan-Ranmala road. These constructed houses are illegal and the said houses amount to an encroachment. These houses already have been allotted to the villagers as per the scheme and are occupied.

3. There is no dispute that the beneficiaries of the scheme have not been arrayed as respondents in this petition. So also, this petition has already been dismissed to the extent of respondent No.6 – Gram Panchayat Avdhan.

4. Be that as it may, we find that this Court would not deal with disputed questions, since a disputed issue of encroachment and illegal construction has been brought before this Court. The petitioners have a statutory, efficacious and expeditious remedy available under the Code of Civil Procedure.

(3)

5. In view of the above, we are unable to exercise our writ jurisdiction and hence this petition is disposed off. We make it clear that in the event the petitioners are entitled to any remedy as may be permissible in law, the said liberty would be open to them.

(AVINASH G. GHAROTE, J.)

(RAVINDRA V. GHUGE, J.)

sjk