

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2940 OF 2021**

Vilas Vitthalrao Savant	...	Petitioner
<i>Versus</i>		
State of Maharashtra and Ors.	...	Respondents

Mr. Amay Deshpande, for Petitioner.
Mrs. M.P.Thakur, AGP, for State.
Mr. Nikhil M. Pujari, for Intervenor.

**CORAM: S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.**

DATE : 24th AUGUST, 2021

P.C. :

1. By the above Writ Petition, the Petitioner interalia seeks the following reliefs :

- “(a) Rule be issued;
- (b) That this Hon’ble Court may kindly be pleased to issue writ of certiorari or any other appropriate writ and/or any other appropriate writ, order thereby calling for the records and proceedings before the Respondent No.4 herein, leading to impugned Notices dated 24th May, 2021 and order dated 27th May, 2021 and order passed by the Id. Respondent No.3 on 8th June, 2021 herein respectively and that after perusing the record, considering the legality, validity and propriety of the said Order, this Hon’ble Court be pleased to quash and set aside the impugned Order passed by the Ld. The Respondent Nos.3 and 4 on 8th June, 2021 and 27th may, 2021 respectively;
- (c) That this Hon’ble Court may kindly be pleased to also quash and set aside the impugned “Stop Work Notice” issued by the Respondent

authorities on 22.05.2021 being illegal and without authority;”

2. The learned AGP states that the grievance of the Petitioner in the above Writ Petition pertains to two Gat numbers i.e. 104 and 123. As far as Gat No.104 is concerned, the State has no objection if the same is levelled by the Petitioner, but the State has a very serious grievance with regard to the excavation carried out by the Petitioner on Gat No. 123.

3. The Learned AGP has further submitted that the Petitioner has an alternate remedy available to impugn the orders dated 8th June, 2021 and 27th May, 2021, i.e. by way of an Appeal under Schedule E of Section 247 of the Maharashtra Land Revenue Code, 1966 before the Superintendent of Land Records or an Officer of equal rank as may be specified by the State Government in this behalf. We are therefore, not inclined to interfere with the impugned orders by exercising our extraordinary jurisdiction under Article 226 of the Constitution of India. However, we grant liberty to the Petitioner to file an Appeal before the appropriate authority. In the event of such an appeal being filed, the State shall not raise the issue of limitation and shall decide the same on merits. The Petitioner shall also be at liberty to move for ad-interim / interim relief before the appropriate authority, which Application if filed will also be decided on merits.

4. The learned Advocate appearing for the Intervenor states that his clients

are desirous of intervening in the above Writ Petition. After hearing the learned Advocate for the Intervenor, we are of the view that if the proposed intervenors are desirous of seeking reliefs qua Gat No.104 or Gat No. 123, they shall be at liberty to take out independent proceedings which again shall be decided on its own merits.

5. The stay granted by this Court shall continue for a period of two weeks from today to enable the Petitioner to file an Appeal before the appropriate authority and move for ad-interim / interim reliefs.

6. The learned Advocate for the Petitioner states that as far as Gat No.123 is concerned, he shall not carry out any work thereon by way of excavation, levelling or otherwise. The statement is accepted.

7. The Writ Petition is accordingly disposed of.

(MILIND N. JADHAV, J.)

(S.J.KATHAWALLA, J.)