

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Writ Petition No. 523/2021

Babulal Mahadeorao Badwaik

...Petitioner

Versus

The State of Maharashtra and ors.

...Respondents

Shri P.J. Vairagade, Advocate for the Petitioner

Shri D.P. Thakare, AGP for the Respondent Nos. 1 to 4 - State

**CORAM : NITIN JAMDAR AND
ANIL S. KILOR, JJ.**

DATED : 17 FEBRUARY 2021

P.C.:

The Petitioner has sought a direction to the Respondents to remove the alleged encroachment made by the Respondent Nos. 5, 6 and 7 on the public land as stated in the Petition.

2. The Petitioner does not own the land on which alleged encroachment is made. In the Petition it is stated that the Petitioner's easement of right is blocked by the structure. The Petitioner has not filed a civil suit on that count but has invoked a public law remedy. It is stated in the Petition itself that the Respondents have filed a Regular Civil Suit No. 204/2016 in the Court of Civil Judge, Senior Division, Bhandara. It appears that an ex parte ad interim order is granted on 23 December

2016. The learned Counsel has submitted that injunction was only till the appearance of the Defendants and the order stands automatically vacated upon appearance. However, no further orders are placed on record.

3. Even otherwise, since the Civil Court has already seized of the dispute wherein the Petitioner can raise all contentions and we do not deem it necessary to entertain the Petition on the same subject. Appropriate course of action would be that the Petitioner files an Application for intervention in Regular Civil Suit No. 204/2016.

4. With this observation, Writ Petition is disposed of.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]