

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11608 OF 2021

GANGABAI NARSHING MUDIRAJ AND ANOTHER THROUGH GPA
NARSHING NARSSAYAJI MUDIRAJ
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.V.B.Dhage, Advocate for the petitioners.
Mr.S.G.Sangle, AGP for State.

(CORAM : RAVINDRA V. GHUGE AND
S.G. DIGE, JJ.)

DATE : APRIL 19, 2022

PER COURT :

1. The petitioner has put forth prayer clauses 'B' and 'C' as under :-

"B. Issue writ of mandamus, or any other writ, order or direction in the nature of writ of mandamus, directing the respondent No.5 to take steps on communication made by the respondent No.4 dated 02.08.2016 and 20.10.2016 within stipulated period and further direct the respondent No.4 to make the road shown in D.P. plan of the village Mahalja within stipulated period and for that purpose issue necessary orders.

C. Issue writ of mandamus, or any other writ, order or direction in the nature writ of mandamus, directing the respondents to remove the encroachment on the road shown in D.P. plan of the village Mahalja and further stop the proposed encroachment mentioned in letter dated

08.07.2016 and for that purpose issue necessary orders."

2. After hearing the learned Advocate for the petitioner for some time, we noticed that in the same cause, the petitioner had earlier preferred Writ Petition No.5953/2015. This Court had issued directions vide order dated 27.01.2016.

3. Thereafter, as the petitioner claimed that her grievance is not redressed, an order dated 11.04.2018, was passed in WP No.2993/2017 filed by the present petitioner. This Court had recorded that the respondent/Corporation should take steps for removal of encroachment by adopting a legal process as may be permissible in law. The petition was disposed off. The learned Advocate for the petitioner further submits that the Corporation has passed a resolution on 22.11.2021, bearing No.135, by which steps were being initiated for removal of encroachment.

4. It does not call for any debate that a writ of mandamus is not to be issued in the same cause repeatedly. Once a command is issued by this Court and the same is not complied with, the petitioner in whose

petition such writ is issued, should avail of a remedy for disobedience of the command of the Court. Non-compliance of the command of this Court does not mean that the petitioner should repeatedly file writ petitions and this Court should repeatedly pass orders by issuing the writ of mandamus.

5. In view of the above, this petition is disposed off with liberty to the petitioner to avail of a remedy with reference to the non compliance of the directions of this Court.

(S.G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)