

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 PUBLIC INTEREST LITIGATION NO.55 OF 2021

SANDEEP ZUMBAR UGALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

.....
Advocate for Petitioners : Mr. Vinod B. Jadhav h/f Mr. Abasaheb D. Shinde
AGP for Respondents 1, 2 and 4: Mr. S.K. Tambe
Advocate for Respondents 3 and 5 : Mr. S.B. Patil
Advocate for Respondents 6, 12, 14, 17, 20, 21, 24, 25, 28, 30 and 31 :
Mr. Sanket S. Kulkarni
.....

**CORAM : RAVINDRA V. GHUGE AND
SANJAY A. DESHMUKH, JJ.
DATED : 24th NOVEMBER, 2022.**

PER COURT :-

1. This petition was filed in public interest. The alleged encroachment is on the Government lands. An amount of Rs.50,000/- was deposited by the petitioner in this Court under the order dated 18.06.2021. After issuing notices and after all the respondents were served, advocate Ms. Nimita Thole and advocate Sanket S. Kulkarni, appeared for respondent Nos.6, 12, 14, 17, 20, 21, 24, 25, 28, 30 and 32. A detailed order was passed by this court on 22.04.2022.

2. After the affidavits were filed by the statutory authorities, it was admitted in the affidavit dated 19.10.2022 filed by Tatyaba Karbhari Thorat, the Sub Divisional Officer, Godavari Left Bank Canal, on behalf of respondent Nos. 2 and 3 that there is an encroachment and the encroachment will have to be removed. An affidavit in reply was

also filed by Popat Damu Pawar, the Naib Tahsildar, on behalf of the District Collector, dated 30.9.2022, indicating that there is an encroachment. The District Collector has recently passed an order dated 5.7.2022, rejecting the request for regularization of encroachments, put forth by the encroachers. We are informed that the encroachers had filed Regular Civil Suit No. 10 of 2007. The said suit was dismissed by the trial court vide judgment and order dated 21.11.2015. The Misc. Civil Appeal, bearing No. 53 of 2008 was also dismissed by the appellate court vide order dated 26.7.2011.

3. The learned A.G.P. submits that the authorities of the Irrigation Department / G.M.I.D.C. can fix a date for removal of the encroachment and the Government would grant sufficient police protection.

4. In view of the above, the learned advocate for the P.I.L. petitioner submits that this petition can be disposed off in view of the respondents initiating the steps for removal of the encroachment.

5. As such, expecting that, the respondents would act expeditiously, showing a high degree of promptitude, in the light of the facts recorded herein-above and the local administration agreeing to grant sufficient police protection, this P.I.L. is disposed off.

6. The amount of Rs.50,000/- deserves to be refunded to the

petitioner. The learned advocate for the petitioner submits that an amount of Rs.40,000/- may be returned and the remainder amount of Rs.10,000/- with interest accrued, be donated to the Library, Advocates' Association of Bombay High Court, Bench at Aurangabad.

7. Hence, ordered accordingly.

(SANJAY A. DESHMUKH, J.)

(RAVINDRA V. GHUGE , J.)

rlj/