

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

940 WRIT PETITION NO.6999 OF 2022

**MADHUKAR SUKHDEO BHOI AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE SECRETARY AND
OTHERS**

...

**Advocate for Petitioners:
Mr. Mahajan Lalitkumar S.
AGP for Respondents/State: Mr. P. S. Patil
Advocate for Respondent Nos.4&5: Mr. N. N. Desale
...**

**CORAM: RAVINDRA V. GHUGE
AND
ARUN RAMNATH PEDNEKER, JJ.
DATE: 27th JULY, 2022**

PER COURT:

1. The Petitioners have put-forth prayer clauses 'B' and 'C', as under-

"B) By way of appropriate writ order or direction in the like nature, this Hon'ble High Court may kindly direct the respondent Nos.2 to 7 to remove the illegal encroachment carried out Gut/Survey No.1/1/37/1/37. at village Hol, Taluka Shirpur, District: Dhule

C) By way of appropriate writ order or direction in the like nature, this Hon'ble High Court may kindly direct the respondent Nos.2 to 7 to take immediate steps for removal of encroachment in view of the guidelines issued by the Hon'ble High Court Supreme Court of India in Civil Appeal No. 1132/2011 vide landmark judgment and order dated 28/01/2011 as well as in view of the directions issued by the Government of Maharashtra vide Government Resolution dated 12/07/2011."

2. The learned Advocate representing the Zilla Parishad and the learned AGP representing the State Authorities, submit that a Report has been submitted by the Panchayat Samiti dated 20.12.2021 to the Chief Executive Officer, Zilla Parishad, Dhule indicating that there is indeed an encroachment and the said encroachment will have to be removed by following the due process of law.

3. The learned Advocate, therefore, submits that the Petitioners will have to persuade the Panchayat, who in turn will seek Police protection and remove the encroachment. If the Panchayat does not do so, the Panchayat can approach the District Collector in the light of Section 53(2-A) of the Maharashtra Village Panchayats Act and accordingly the District Collector may then on an application made or suo-motu, initiate action.

4. Considering the passage of time, we are of the view that the Panchayat may not have the will or the desire to initiate action. The District Collector can surely do so without even waiting for any application to be made under Section 53(2-A) of the Maharashtra Village Panchayats Act.

5. In view of this position, this Petition is disposed off.

6. We direct Respondent No.3 District Collector to consider the Report dated 20.12.2021.

If the copy of the said Report is not available with the Collector, the Chief Executive Officer, Zilla Parishad, Dhule shall forthwith forward copy of the Report to the District Collector.

7. Needless to state, we expect the District Collector to scrupulously follow the law that is applicable in the light of the scheme as is prescribed under Section 53 of the Maharashtra Village Panchayats Act and by adhering to the principles of natural justice and fair play. After such procedure is complied with, the Collector would resort to the action of removal of encroachment.

[ARUN RAMNATH PEDNEKER, J.]

[RAVINDRA V. GHUGE, J.]

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