

(1)

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

938 WRIT PETITION NO.12561 OF 2021

**BABAN MHALLARRAO NAGARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH PRINCIPAL
SECRETARY AND OTHERS**

...

Mr B. A. Dhengle, Advocate for petitioners;
Ms R. P. Gaur, A.G.P. for respondent Nos.1 to 3
Mr A. S. Patel, Advocate for respondent No.6
Mr S. G. Shete, Advocate for respondent Nos.7 to 12

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

DATE : 5th April, 2022

PER COURT:

1. This petition is filed by the petitioners without any research. They have not even gone through the revenue record to support their averment that the land on which respondent Nos.7 to 12 are carrying out a construction, is a Gaothan land or otherwise. When called upon, the learned Advocate for the petitioners submits that it is their belief that this is a Gaothan land. When called upon, as to whether they have gone through the revenue record as a part of research before approaching this Court, the answer is in the negative.

(2)

2. Respondent Nos.7 to 12 have filed the affidavit-in-reply along with copies of mutation entries, extract of consolidation scheme, copy of the N.A. order passed by the Tahsildar, Jintur, copy of the map issued by the TILR, copy of the partition deed and proclamation issued by the Grampanchayat, etc. Based on these documents, it is contended that the land on which these respondents are carrying out construction, is their ancestral land which has been partitioned amongst those persons who had a share in the ancestral property.

3. We would not go into a disputed question and if the petitioners are of the belief that the respondents are indulging in illegal construction or encroachment on the Gaothan land, they are at liberty to take recourse to the remedy of filing a civil suit and prove that the respondents are encroachers, by leading evidence.

4. In view of the above, this petition is disposed off.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)