

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

WRIT PETITION NO.9723 OF 2022

**SAYYAD KHALIL SAYYAD WAZIR
VERSUS
AURANGABAD MUNICIPAL CORPORATION THROUGH
ITS COMMISSIONER AND ANOTHER**

...
Advocate for the Petitioner : Shri Thombre Chandrakant V
...

**CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.**

DATE :- 17th October, 2022

Per Court :-

1. The petitioner's case is that his plot No.E-15, CTS No.12311 at Sanjay Nagar, Bayajipura, Aurangabad, had suffered an encroachment at the hands of a person, by name Sanjay Radhakishan Basaiye. The petitioner had preferred RCS No.57/2018 for the same cause. Notices were issued in the matter. Subsequently, on 13.06.2018, the Municipal Corporation issued the notice to Sanjay Basaiye to remove the encroachment within 24 hours. After four years, the petitioner has preferred this petition.

2. This petition cannot be entertained for two reasons.

Firstly that, a personal cause of action with regard to an individual having encroached on his plot, was already carried to the Civil Court by filing RCS No.57/2018. The petitioner has voluntarily withdrawn the said suit. Secondly, the purported encroacher has not been arrayed as a respondent. Therefore, this petition suffers from non joinder of parties.

3. In view of the above, this Writ Petition is dismissed.

4. The petitioner is at liberty to avail of a remedy as is permissible in law.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)