

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

WRIT PETITION NO.2199 OF 2023

**AREF BAIG MUNSI BAIG MIRZA AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS**

...

Advocate for Petitioners : Mr. Shrikant G. Kawade
AGP for Respondents: Mr. P.K. Lakhotiya.

**CORAM : NITIN W. SAMBRE
& S.G. CHAPALGAONKAR, JJ.**

DATE : 8th MARCH, 2023

P.C.:-

Heard.

2. Petitioners are claiming to be owner of the properties which they have purchased vide registered sale deeds, as are reflected at 'Annexure A'. The contention of the petitioner is, the notice issued by the Gram Panchayat claiming to be under Section 53 of the Maharashtra Village Panchayats Act is too vague and without considering the aforesaid rights.

3. The learned AGP appearing for respondent No.1 submits that once the authority has formed an opinion, the authority was justified in proceeding under Section 53.

4. We have appreciated the aforesaid submissions. Perusal of

the impugned order does not reflect that details as regards encroachment carried out by the petitioners, location of encroachment in Gat Number/Survey Number, the fact about alleged ownership of the petitioners over the property, is not at all reflected therein.

5. In the aforesaid background, we direct that the impugned notice dated 10.1.2023 be treated as a show cause notice to the petitioners. We direct the petitioners to appear before the authority of Gram Panchayat by submitting entire ownership record and their explanation to the said notice within one week from today.

6. Once the petitioners submit their explanation, we expect the authorities to decide the same within a period of four weeks thereafter, as to whether the petitioners have encroached on the Government land and whether the action of removal of encroachment is warranted under Section 53 of the Maharashtra Villager Panchayats Act. The aforesaid decision be communicated to the petitioners in any case, by 21st April, 2023.

7. We dispose of the petition with a direction that the respondent shall not give effect to the impugned notice of removal of encroachment till 29th April, 2023. No costs.

[S.G. CHAPALGAONKAR]
JUDGE

[NITIN W. SAMBRE]
JUDGE

grt/-