

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

WRIT PETITION NO.3488 OF 2023

**MANOHAR GIRDHAR KHAIRNAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS DISTRICT
COLLECTOR AND OTHERS**

...
Advocate for the Petitioner : Shri Rakhunde Pravin B.
AGP for Respondents 1 to 3/State : Shri S.W. Munde
Advocate for Respondent 4 : Shri M.M. Patil Beedkar

...
**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 07th June, 2023

Per Court :-

1. The Petitioner is a practicing Advocate in Jalgaon district. His purported encroachment has been demolished by the Nagar Panchayat, Muktainagar allegedly without any notice. Regular Civil Suit Nos.122/2020 and 123/2020 are, therefore, filed. By this petition, the Petitioner prays that Resolution No.15 passed by the Nagar Panchayat on 27.02.2020, be implemented. By the said resolution, the Nagar Panchayat decided to initiate an action against the encroachers. Respondent No.5 has been impleaded as being one of the encroachers. The prayer of the Petitioner is that by implementing the said resolution, all encroachments should be removed.

2. The learned Advocate for Respondent No.4 submits, on instructions from the Chief Officer of the Nagar Panchayat, that Respondent No.5 has not indulged in any encroachment and there is no reason to initiate any action against him.

3. It is thus, obvious that, on the one hand, the Petitioner alleges that the Nagar Panchayat is showing favouritism towards Respondent No.5, who is a Legislative Assembly Member and on the other hand, the Nagar Panchayat takes a stand that Respondent No.5 has not indulged in any encroachment. Moreover, it will have to be proved that the encroachment has been done and which would require recording of evidence to measure the lands and establish the encroachment. Oral evidence being necessary to prove all these aspects, would render this petition unworkable.

4. In view of the above, **this Writ Petition is disposed off** with liberty to the Petitioner to avail of the remedy of approaching the Civil Court for establishing the purported encroachments and for seeking necessary orders for removal of such encroachments.