

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL PUBLIC INTEREST LITIGATION NO.10 OF 2021
WITH
CRIMINAL APPLICATION NO.337 OF 2023

- 1) Abdul Mashhood S/o Mughees Mohammadi,
Age-51 years, Occu:Social Work,
R/o-Ajanta, Tq-Sillod, Dist-Aurangabad,
PAN No. BZOPAO387C,
Adhar Card No. 396597817507,
Mobile No. 9096105644,
- 2) Raghunath S/o Baburao Chavan,
Age-55 years, Occu:Social Work and Agri.,
R/o-Ajanta, Tq-Sillod, Dist-Aurangabad,
Adhar Card No. 258392945606,
Mobile No. 9421317153,
- 3) Suraj S/o Narayan Mandaware,
Age-65 years, Occu:Social Work and Agri.,
R/o-Ajanta, Tq-Sillod, Dist-Aurangabad,
Adhar Card No. 631162580086,
Mobile No. 9860215687,
- 4) Naushad S/o Abdul Wahed,
Age-46 years, Occu:Social Work and Agri.,
R/o-Ajanta, Tq-Sillod, Dist-Aurangabad,
PAN No. GJZPK2473K,
Adhar Card No. 966317675223,
Mobile No. 9970427116,
- 5) Babulal S/o Gotiram Pathe,
Age-60 years, Occu:Social Work and Agri.,
R/o-Ajanta, Tq-Sillod, Dist-Aurangabad,
Adhar Card No. 841608928948.

...PETITIONERS

VERSUS

- 1) The State of Maharashtra,
Through the Secretary,
State Transport Department,
Mantralaya, Mumbai-400 032,
- 2) The General Manager,
Maharashtra State Road Transport
Corporation, Central Office,
Transport Bhavan, Anand Nair Marg,
Mumbai-400 008,
- 3) The Regional Manager,
Maharashtra State Road Transport
Corporation, Railway Station Road,
Aurangabad,
- 4) The Depot Manager,
Maharashtra State Road Transport
Corporation, Sillod, Tq-Sillod,
Dist-Aurangabad,
- 5) The Superintendent of Police,
Aurangabad (Rural),
T.V. Centre Road, Aurangabad,
- 6) The Police Inspector,
Ajanta Police Station,
Ajanta, Tq-Sillod, Dist-Aurangabad

...RESPONDENTS

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Mr.Angad L. Kanade Advocate for Petitioners.
Mr.S.D. Ghayal, A.P.P. for Respondent Nos.1, 5 and 6.
Mr.D.S. Bagul Advocate for Respondent No.4.
Mr.A.M. Inamdar Advocate for Applicant in Criminal
Application No.337 of 2023.

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**CORAM: SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.**

DATE : 22nd JUNE, 2023

ORDER [PER SMT. VIBHA KANKANWADI, J.] :

1. By the present Public Interest Litigation, the petitioners have prayed thus:-

“(B) Issue a writ of mandamus, or any other appropriate writ, order or directions to the respondent authorities to remove the encroachments made over the land of MSRTC Bus Stand, Ajanta, bearing gut No. 162 Survey No. 79 admeasuring approx. 22 R land, situated at Ajanta, Tal. Sillod, Dist. Aurangabad,

(C) Issue a writ of mandamus, or any other appropriate writ, order or directions to the respondent authorities to register the crime against the encroachers who made encroachment over the land of MSRTC Bus Stand, Ajanta, bearing gut No. 162 Survey No. 79 admeasuring approx. 22 R land, situated at Ajanta, Tal. Sillod, Dist. Aurangabad, in view of Government Resolution dated 10.10.2013 issued by Revenue and Forest Department, Mantralaya, Mumbai.”

2. Heard learned Advocate Mr. Kanade appearing for the petitioners, learned APP Mr Ghayal appearing for respondent Nos. 1, 5 and 6, learned Advocate Mr. Bagul appearing for respondent No.4 and learned Advocate Mr. Inamdar appearing for applicant in Criminal Application No.337 of 2023.

3. The petitioners are the residents of Ajanta, Taluka-Sillod, District-Aurangabad. Maharashtra State Road Transport Corporation (for short "MSRTC") Bus Stand at Ajanta is constructed on Gut No.162, Survey No. 79 in area admeasuring approximately 22 R land which is situated at National Highway No.753-E and 753-F at Ajanta. It is stated that there is illegal encroachment around the bus stand. The Government has issued Resolution on 10th October 2013 and thereby directed the respective departments to take up the action against illegal encroachers. The encroachment around bus stand is in the nature of installation of tin sheds, tapri and small shops for commercial purposes. The said encroachment is creating problem for the traffic. Even the village panchayat of Ajanta had called Gramsabha and by resolution dated 21st August 2018 demanded removal of encroachment. Thereafter representation was made on 25th June 2021 also. It is then also stated that respondent Nos. 1 to 5 are in possession of the said land on the basis of lease for 30 years from one Chunnilal. But except the cabin of Controller, the remaining portion of the land is illegally encroached for commercial purposes. Even the Depot Manager, MSRTC, Sillod, by letter dated 18th December 2020 had requested the Police Inspector, Ajanta Police Station to remove

encroachment. Even Tahsildar, Sillod has written such letter on 4th January 2021 to the Police Station, however, no action is being taken. Hence present Petition.

4. Respondent No.4 has filed affidavit-in-reply. Anand Babarao Chavan is Depot Manager, MSRTC, Sillod. He has stated that the object of MSRTC is to provide an efficient, adequate, economical and properly coordinated system of road transport service in the State. MSRTC has constructed its division offices, bus stands etc. either on its own land or land allotted by the State Government. If land is not available at the particular place then Corporation takes the land on rent. So far as village Ajanta is concerned, it is on Aurangabad – Jalgaon Road and in order to provide better facilities and amenities, the MSRTC is taking appropriate permission from the Public Works Department. The bus stand is constructed in the year 1967. One lady by name, Sayyada Tayyaba Fatema Peer Ahmed Ali Khan has filed Regular Civil Suit No. 68 of 2022 before the Court of Civil Judge, Senior Division, Sillod claiming to be the owner of the property and stated that the MSRTC and other shopkeepers have committed encroachment over her property. She has prayed for removal of encroachment in that suit. The said proceedings are pending.

5. In order to cut short, we would say that the respective Advocates have supported their stand.

6. We would like to say that this Petition appears to be the example of bad research or no research at all. With some personal interest it appears to have been filed. Absolutely no documentary evidence is produced on record which would show that how the property to the extend of 22 Gunthas was given to the MSRTC, how much remaining, how many persons have encroached etc. It has not been also pointed out how the Government Resolution dated 10th October 2013 would be applicable to MSRTC. The copy of the said Resolution has been provided and it appears that it is in respect of the Government land. There is nothing on record to show that the said land on which the MSRTC had constructed the bus stand, has received the land. Merely because the Depot Manager had given some letter to Police Inspector, Ajanta Police Station on 11th December 2020, some third party will not get right to say that the action should be taken against the alleged encroachers. The letter by Tahsildar, Sillod dated 4th January 2021 would show that 0.19 Guntha land is on lease with MSRTC. Still who had given the said land on lease basis to MSRTC, is not coming forward. Now, in the affidavit in reply it has come on record that the Civil Court is

seized of the matter and some lady is claiming to be the owner of the entire property. Her said case is also for removal of encroachment, wherein even the MSRTC itself is defendant.

7. Under such circumstance, no case is made out for exercise of constitutional powers under Article 226 of the Constitution of India to take any action or even for issuing direction and the Petition deserves to be dismissed. When the Petition is based on poor research or no research at all, such Petitions are wasting the judicial time of the Court and therefore, out of the amount of Rs.50,000/- deposited on 27th August 2021 as per the order passed by this Court on 10th August 2021, an amount of Rs.10,000/- be credited to the High Court Legal Services Sub Committee, Aurangabad and the rest of the amount be given to the Petitioners.

8. Accordingly, the Public Interest Litigation stands dismissed.

9. Criminal Application No.337 of 2023 also stands disposed of.

[ABHAY S. WAGHWASE]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE