

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

WRIT PETITION NO.6678 OF 2023

**PANDURANG DASHRATH YADAV AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS**

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Mr. S. S. Thombre, Advocate for Petitioners

Mr. V. M. Kagne, AGP for the respondent - State

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

DATE : 20.06.2023.

PER COURT :-

1. The Petitioners have put forth prayer clauses (B) and (C) as under:

(B) By issuing a writ of mandamus, orders, directions or any other appropriate writ in the like nature, thereby restrain the Respondents authorities from demolishing the structures raised on the respective houses of the petitioners, under the garb of alleged encroachment;

(C) Pending hearing and final disposal of this writ petition, Respondents authorities may kindly be directed not to demolish the structures raised on the houses of the petitioners or evict the petitioners from their respective houses under the garb of alleged illegal encroachment.

2. The contention of the Petitioners is that without any prior notice, the Panchayat Samiti, Kaij has taken the initiative of removing their dwellings, which are mostly RCC constructions with proper building permission. News items were published in the local newspapers after the pressman realised that the authorities were likely to demolish the dwellings under the pretext of encroachment.

3. The learned AGP submits on instructions that the State will never take the law into its hands and will always follow the due procedure of law.

4. On instructions from the Naib Tahsildar present in the Court, the learned AGP submits that the Panchayat Samiti, Kaij, would be following the due procedure laid down in law. Measurements and assessments would be made. Notices would be issued. Documents would be verified. After completing such exercise under the prescription of law, further action would be initiated.

5. We are on the view, in the light of the settled position of law that even if a public project has to be completed without causing any delay, the rights of the land owners cannot be compromised. If the lands are to be acquired, they would be entitled for compensation.

If the roads are to be widened, the rights of the land owners cannot be jeopardized. Keeping in view Article 300-A of the Constitution of India, the rights of the land owners will have to be considered by referring to their documents/revenue records and thereafter, the authorities can pass appropriate orders.

6. For the present, we are informed that there is no demolition drive. Nevertheless, the demolition drive cannot be without verifying the records of the land owners, unlike the encroachments on the State Highways which touch the shoulders of the roads.

7. In view of the above, this **Petition is disposed off** by recording that the respondents would follow the due procedure laid down in law. Documents held by these Petitioners in support of their purported titles to the property, would be verified before initiating action. If the petitioners are aggrieved, they would be at liberty to approach the competent civil Court for espousing their cause as against purported unlawful demolition of their properties.

[Y. G. KHOBRADE, J.]

[RAVINDRA V. GHUGE, J.]

SMS