

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

**WRIT PETITION NO. 11656 OF 2022**

- 1) Shrikishan s/o Baburao Bhise,  
Age; 65 years, Occ; Agriculture,  
R/o; Bhokaramba, Tq. Renapur,  
District; Latur.

**...PETITIONER**

**VERSUS**

- 1) The Additional Divisional Commissioner -1  
Aurangabad Division, Aurangabad  
District; Aurangabad.
- 2) The Village Panchayat Bhokaramba,  
Tq. Renapur, District; Latur,  
Through its Gramsevak.
- 3) The Block Development Officer,  
Panchyat Samiti, Renapur,  
Tq. Renapur, Dist. Latur.
- 4) The Investigation Officer,  
Police Station, Bhokaramba,  
Tq. Renapur, Dist. Latur.
- 5) Zilla Parishad Primary School,  
Bhokaramba, Tq. Renapur,  
District; Latur,  
Through its Secretary.

**...RESPONDENTS**

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 Advocate for the Petitioner : Mr.Kiran T. Jamdar  
 AGP for Respondent Nos. 1 & 4/State : Ms. D.S.Jape  
 Advocate for Respondent No. 2 : Mr. A.A. Phad  
 Advocate for Respondent Nos. 3 & 5 : Mr.Eknath P. Sawant and Mr.  
 Shomitkumar Salunke  
 Advocate for Applicant (in C.A. 8343 of 2023 for intervenor) : Mr.  
 Gaurav L. Deshpande  
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**WITH**  
**CIVIL APPLICATION NO. 8343 of 2023**  
**IN WP/11656/2022**

Dr. Shivaji s/o Shrirangrao Bhise,  
 Age; 63 years, Occ; Doctor,  
 R/o; Bhokaramba Tq. Renapur,  
 District; Latur,  
 At present R/o; Bhise, Hospital,  
 Near L.I.C. Officer, India Nagar,  
 Ambajogai Road, Latur.

**...APPLICANT**

**VERSUS**

- 1) Shrikishan s/o Baburao Bhise,  
 Age; 65 years, Occ; Agriculture,  
 R/o; Bhokaramba, Tq. Renapur,  
 District; Latur.
- 2) The Additional Divisional Commissioner -1  
 Aurangabad Division, Aurangabad  
 District; Aurangabad.
- 3) The Village Panchayat Bhokaramba,  
 Tq. Renapur, District; Latur,  
 Through its Gramsevak.
- 4) The Block Development Officer,

Panchyat Samiti, Renapur,  
Tq. Renapur, Dist. Latur.

- 5) The Investigation Officer,  
Police Station, Bhokaramba,  
Tq. Renapur, Dist. Latur.
- 6) Zilla Parishad Primary School,  
Bhokaramba, Tq. Renapur,  
District; Latur,  
Through its Secretary.

...RESPONDENTS

**CORAM : KISHORE C. SANT, J.**

**Date of Reservation : 07.08.2023**

**Date of Pronouncement : 07.10.2023**

**JUDGMENT [ PER : KISHORE C. SANT, J. ] :**

1. This matter arises out of the proceedings under Section 53 (3A) of the Maharashtra Village Panchyat Act. The petitioner has assailed the order passed by the learned Additional Divisional Commissioner-1, Aurangabad in Grampanchyat Appeal bearing No. 2022/Village Panchayat/Appeal/CR-126, dated 10.11.2022. The learned Additional Divisional Commissioner has rejected an appeal upholding the order passed by the Sarpanch and Grampanchyat rejecting the challenge to issuance of notices to the petitioner for removal of encroachment made by the petitioner.

2. The petitioner is the owner of land Gut No. 269, 268 and 349 which were earlier part of Survey No. 142. He is the owner and successor of the said land along with house situated on the land. The Grampanchyat found that the petitioner has committed encroachment, therefore, issued notices under Section 53 (2) of the village Panchyat Act directing to remove an encroachment.

3. It is the case of the petitioner that he has not committed any encroachment. The petitioner also filed a suit in the Civil Court in the year 2018. However, thereafter, again he filed one more suit in the year 2022. Those suits were not entertained as the remedies were available to him under the Village Panchyat Act. Thus, the petitioner thereafter, challenged notices before the authorities under Section 53 (3A) of the Village Panchyat Act.

4. It is argued by the learned Advocate Mr. Kiran Jamdar that the petitioner has not made any encroachment earlier. He had wrongly filed a suit before the Civil Court, however, on realizing that the Civil Court has no jurisdiction, he withdrew the suit and approached proper forum. The notice itself is illegal. It is further the case of the petitioner that from 1956 the land bearing Survey

No. 349 is given to a School and it is a Government land, wherein the ownership cannot be considered.

5. The learned Advocate for respondent Nos. 3 and 5 vehemently opposed the petition. It is their submission that the learned Additional Divisional Commissioner has rightly passed an order. The encroachment was noticed on land Gut No. 349 where on the respondent No. 5 School is being run. The petitioner has constructed a house on the open space of the School. The Grampanchyat had even filed a suit for declaration that the land belonged to the Grampanchyat bearing R.C.S. No. 5 of 2017. Thereafter, an appeal came to be filed. The notice is rightly issued as the land belongs to the School and the Grampanchyat. The land was measured by issuing notices by the Land Records Department and it is only after the land was actually measured. The encroachment of the petitioner was found. Thus, notices are valid and legal.

6. The learned AGP for respondent Nos. 1 & 4 supports the order passed by the learned Additional Divisional Commissioner.

7. This Court on considering submissions and record

before Court finds that the learned Additional Divisional Commissioner after considering all the facts on hearing both the parties has delivered a judgment. It is observed that the land Survey No. 142 E was given by one Laxmibai Sopanrao on 7.8.1956 to the extent of 2 acres to the Headmaster of the School. As per order passed by the Tahsildar Mominabad (Ambajogai) after consolidation of land Survey No. 142/2 was converted into Gut No. 349 was given to the School. An action was started after the School Committee passed resolution requesting Grampanchyat to take action for removal of an encroachment. Thereafter, the Grampanchyat had issued notice. From the record it is seen that the petitioner had also filed an application in the suit for temporary injunction, however, said was rejected. Thereafter, a Misc. Civil Appeal was preferred there against and the same was pending and no order was passed in favour of the petitioner as appears from the record. Nothing is produced on record to show the present position of the suit.

8. The learned Commissioner has considered all the relevant aspects and has passed the impugned judgment and order. The Commissioner further observed that the Grampanchyat has

issued notices after following proper procedure. The notices are thus legally issued and rejected an appeal. This Court on considering all the relevant aspects finds that no case is made out by the petitioner for setting aside the impugned order passed by the learned Commissioner.

9. In view of the above, this Court finds that no case is made out to entertain the Writ Petition and the same is dismissed. No order as to costs.

10. The pending Civil Application is disposed off.

**( KISHORE C. CHANT )**  
**JUDGE**

mahajansb/