

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

917 PUBLIC INTEREST LITIGATION NO.24 OF 2019
WITH CA/9203/2023 IN PIL/24/2019

PAWAN ASHOK BHINGARDIVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

Mr.S.R.Andhale, Advocate for the Petitioner.
Mr.D.R.Kale, Govt.Pleader for Respondent Nos. 1 to 3.
Mr.S.T.Shelke, Advocate for Respondent Nos. 5 to 7.

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

DATE : JULY 27, 2023

PER COURT :

1. The pleadings in this petition are on the premise that certain persons are 'culprits and encroachers' (paragraph Nos. 15 and 16 of the memo of the petition).

2. After hearing the learned Advocates for the respective sides and upon perusing the petition paper book, more particularly the affidavit in reply filed by the District Collector in response to the order of this Court dated 27.01.2023, we find that the unnamed persons (not arrayed as Respondents before the Court and whose names are not set

out in the pleadings), prima-facie, are not encroachers. Those 16 persons, identified by the Collector, are land owners having a proper title. It is only that they commenced construction without acquiring permission. Notices have been issued to them.

3. The learned Advocate for the Petitioner submits that the Petitioner desires to withdraw this petition and if advised, would prefer a civil suit before the competent Civil Court.

4. In view of the above, **this PIL is dismissed as withdrawn.** Considering the above, the amount of Rs.25,000/- deposited in this Court, alongwith accrued interest, shall be distributed in equal proportions to two orphanages/institutions (which care for young children/orphans) and the Registry shall transmit the said amount through bank transfer to Infant India, Anandwan, 659/Infant Hill, In front of Bindusara Dam, N.H.211, Pali, Beed - 431122 (Bank Details - Canara Bank A/c No.3773201000011, IFSC Code : CNRB0003773) **and** Orphanage Home i.e. "Shantivan", Arvi, Tq.Shirur Kasar, Dist.Beed "Bhavani Vidhyarthi Kalyan Pratishthan, Arvi" (Bank Details : State Bank of India, Branch Shirur (Kasar), A/C No.33446000963, IFSC Code

- SBIN0005995).

CIVIL APPLICATION NO. 9203/2023

5. In so far as the Civil Application No.9203/2023, by which the District Collector has moved an application praying for recalling the order dated 12.07.2023, the learned Government Pleader submits that the order of this Court dated 27.01.2023 was not brought to the notice of the District Collector. Show cause notices have been issued to the concerned persons dealing with the litigation branch and those who were duty bound to bring the order to the notice of the District Collector. The said Officer has recently joined on 15.02.2023. He was not even apprised, whether the order of this Court dated 27.01.2023 was brought to the notice of the earlier Collector. Though he tenders an apology, he further submits that the amount deposited by him may be donated to the Anand Gram (Infant) India) Canara Bank, Pali Branch, IFSC Code : CNRB0003773, A/c No. 3773201000011.

6. In view of the above, the order dated 12.07.2023 is partly recalled with the following observations :-

[a] The action taken report with regard to those responsible for not

apprising the District Collector of the order of the High Court dated 27.01.2023, shall be placed before this Court in the 3rd week of October, 2023.

[b] The direction of imposing costs on the District Collector is recalled and instead we record his statement that he would donate the amount of Rs.5,000/-.

[c] The amount deposited in this Court be transferred to Anand Gram (Infant) India) Canara Bank, Pali Branch, IFSC Code : CNRB0003773, A/c No. 3773201000011.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)