

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

**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 5890 OF 2023**

Narmada Suresh Bhosale & Anr.

...Petitioners

*Versus*

Superintendent Divisional Mental Hospital,  
Yerwada, Pune & Ors.

...Respondents

Dr. Suresh Mane, Advocate for the Petitioner.

Mrs. M. P. Thakur, AGP for State/Respondent Nos.1, 2 & 4 to 6.

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**CORAM: G. S. KULKARNI  
& R. N. LADDHA, JJ.**

**DATED: 26 APRIL, 2023**

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**PC.**

1. We have heard Dr. Mane learned counsel for the petitioner and Mrs. Thakur learned counsel for respondent Nos.1, 2 & 4 to 6.

2. The petitioners are residents of survey No.27 Chandrama Nagar, Yerwada, Pune. They are before the Court assailing eviction notices dated 5 December 2022 and 21 December 2022. As the notices are likely to be implemented, the petitioners apprehend their eviction from the structures as occupied by them. The petition is hence filed praying for the following reliefs:-

*“A. The Hon’ble court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus or any other appropriate writ or direction to quash and set aside the impugned eviction notices dt. 21/12/2022 and 05/12/2022 issued to the petitioners by Respondent no. 1.*

*B. The Hon’ble court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction to stay the illegal impugned eviction notices dt. 21/12/2022 and 05/12/2022 served on the Petitioners and thereby restrain the respondents to proceed further in the matter.*

*C. The Hon’ble court may be pleased to issue a writ of Certiorari or any other appropriate writ, order or direction for calling the official records of the matter from all the concerned respondents.*

*D. The Hon’ble court may be pleased to direct the Respondents 2 to 6, the apex authorities to take necessary department and other punitive actions against all erring officials for allowing to grow such encroachments on the governmental land by their sheer negligence, tolerance and illegalities.*

*E. The Petitioners are also pained to pray to the Hon Court to direct the respondent no. 7 to file its details affidavit explaining its own actions and inactions and also the directions to it about its role, responsibilities and under functions under the Protection of Human Rights Act, 1993.*

*F. Till and until the final disposal of the present Writ Petition, the Hon’ble court may be pleased to grant the Interim, Ad-interim relief in terms of prayer clause “B” herein above*

*G. Any other appropriate relief which the Hon’ble court may think fit and proper to meet the ends of justice.”*

3. It is contended by Dr. Mane that the petitioners are occupying the said structures prior to 1 January 2011 and therefore, according to him, they are protected under the State Government policies. It is his contention that any action of eviction or demolition of the structure in pursuance of the impugned notice as issued by the Superintendent Divisional Mental Hospital, Yerwada, Pune, would not in accordance with law.

4. On the other hand Mrs. Thakur learned AGP would submits that the petitioners have no legal right to occupy the structures as they are encroachers on Government land and therefore the designated authority is right to issuing the eviction notices as impugned in this petition.

5. We have perused the impugned notice. We find that there is no reference in regard to the petitioners contention that the structures as occupied by them would stand protected under the Government policies under which the cut-off date presently is 1 January 2011.

6. In our opinion, it is appropriate for the designated authority of the State Government to issue show cause notices to the petitioners, calling upon them as to why an action of eviction ought not to be taken against them and after examining whether the petitioners would stand covered by any welfare policy of the State Government in regard to protection of their structures and pass appropriate orders in accordance with law.

7. Let such show cause notice be issued within 15 days from today. Reply to the show cause notice be called upon to be filed by the petitioners within 10 days on receipt of the said notice and appropriate order after hearing the petitioners be passed within one month from the date of hearing.

8. Keeping open all contentions of the parties, we dispose of the petition in the above terms. No costs.

(R. N. LADDHA, J.)

(G. S. KULKARNI, J.)