

VRJ

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO.24 OF 2020

Harishchandra Shantaram Mhatre ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.781 OF 2024
IN
PUBLIC INTEREST LITIGATION NO.24 OF 2020**

Dr. Sarvesh Shahu Sawant ... Applicant
In the matter between
Harishchandra Shantaram Mhatre ... Petitioner
V/s.
The State of Maharashtra & Ors. ... Respondents

Mr. Shriram Kulkarni i/by Mr. Nitesh Mohite for the petitioner.

Mr. Jagdish G. Aradwad (Reddy) for the applicant in IA/781/2024.

Mr. P. P. Kakade, Government Pleader with Mr. O. A. Chandurkar, Additional Government Pleader and Ms. G. R. Raghuwanshi, AGP for respondent Nos.1 and 2.

Mr. A. S. Rao for respondent Nos.3 to 7.

**CORAM : DEVENDRA KUMAR UPADHYAYA, CJ &
AMIT BORKAR, J.**

DATED : AUGUST 5, 2024

P.C.:

1. Pursuant to the order of this Court dated 24 January 2024, a survey of encroachment and illegal construction on the government land was conducted, and based on such survey a report dated 19 March 2024 has been prepared by the office of the Tahsildar, Kalyan. The said report has been brought on record of this Court by means of an affidavit sworn in by the Sub-Divisional Officer, dated 20 March 2024.

2. As per the report appended with the said affidavit about land comprising an area of 118.18.11 is encroached/unauthorizedly occupied/covered with unauthorized construction. The Sub-Divisional Officer, in the said affidavit in paragraph No.3, has stated that all possible permissible steps to remove illegal constructions and encroachments have been planned. He has also stated that concerned authorities i.e., Talathi (village officer) and Circle Officer of Kalyan Tahsil have been instructed to protect the government land.

3. In view of the aforesaid, the survey report and the statement made by the Sub-Divisional Officer in paragraph No.3 of the said affidavit dated 20 March 2024, we call upon the Sub-Divisional Officer to file an additional affidavit stating therein as to what action has been taken since 20 March 2024 for removal of encroachment/illegal construction.

4. The affidavit under this order shall also indicate as to what is the area which has been made encroachment free and also what is the number of illegal constructions which has

been removed. The said affidavit shall be filed within two weeks from today.

5. Our attention has been drawn to an affidavit submitted on behalf of the respondent-Corporation, dated 22 July 2024, according to which, regarding eight structures the notices were issued under section 268(1) of the Maharashtra Municipal Corporations Act, 1888 for vacating the tenements and since the notice was not complied with, a requisition under section 268(5) of the Act was issued to the Police Officer concerned to get the premises vacated so as to demolish the said structures.

6. In view of the aforesaid, we call upon the respondent-Corporation to file an affidavit as to the present stage of the actions taken by the Corporation not only in respect of the eight structures but in respect of other illegal structures/encroachments existing on the land falling within the territorial jurisdiction of the respondent-Corporation. This affidavit shall also be filed within two weeks from today.

7. Stand over to **28 August 2024.**

(AMIT BORKAR, J.)

(CHIEF JUSTICE)