



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2669 OF 2025

Mahant Sunder gir nange Maharaj Pratishthan
Through its Secretary and another

.. Petitioners

Versus

The State of Maharashtra through its Secretary,
Revenue and Forest Department, Mantralaya,
Mumbai – 32 and others

.. Respondents

...
Advocate for the petitioners : Mr. D.B. Pawar
AGP for the respondent – State : Mr. S.R. Wakale
...

**CORAM : MANGESH S. PATIL &
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 05 MARCH 2025

ORDER (MANGESH S. PATIL, J.) :

The petition is filed by the secretary and president of a public trust registered under the Maharashtra Public Trusts Act, 1950, seeking a writ of *mandamus* directing the respondents who are the Divisional Commissioner, District Collector, Sub-Divisional Officer and Tahsildar for completing the enquiry pursuant to the notice dated 14.07.2023 issued by respondent no. 3 - Collector and notice dated 28.06.2024 issued by respondent no. 4 - Sub Divisional Officer, for removal of alleged encroachment over inam lands bearing survey no. 163, 164, and 168 of Kasbe Ausa, Tq. Ausa, District - Latur.

2. They are also seeking a direction to respondent no. 5 - Tahsildar whereby the office of respondent no. 3 has directed respondent no. 5 - Tahsildar to undertake enquiry on the petitioner's request to include its name over the afore-mentioned survey number wherein encroachments have been made and to mutate petitioner's name in the revenue record.

3. We have heard learned advocate for the petitioners.

4. The afore-mentioned communications and the stand of the petitioners, clearly indicate that petitioner - trust claims to be entitled to the possession of the lands being inam lands and seeking to remove encroachments made over those. The averments in the petition are vague. There is no material to demonstrate that any entry of these very lands has been taken in the public trust register, as is required under the Maharashtra Public Trusts Act, 1950.

5. Besides, assuming that the lands in question have been registered in the name of the petitioners in the public trust registered, if it is a matter of recovery of possession based on title, this court, in exercise of powers under Article 226 of the Constitution of India, cannot enter into the controversy much less when the alleged encrachers are not before us. If at all the petitioners are really interested in recovery of

possession based on title, it would be appropriate that being factual disputes, they approach the civil court.

6. It appears that the petitioners also simultaneously are interested in the compensation in respect of a portion of land gat no. 168 which is acquired for the national highway no. 361. It appears that by communication dated 12.12.2021 (**Exhibit F**), the petitioners have addressed a letter to the concerned Sub Divisional Officer seeking compensation.

7. The afore-mentioned facts make it evident that the right being claimed by the petitioners involves several disputed questions of facts. Appropriate parties have not been arrayed as respondents before us. Under such circumstances, powers under Article 226 of the Constitution of India cannot be invoked.

8. The petition is dismissed.

[PRAFULLA S. KHUBALKAR]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/