



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 5108 OF 2025

Vasant Haribhau Londhe

..PETITIONER

VERSUS

Executive Engineer,
Public Works Department, Division Sangamner
and Others

..RESPONDENTS

....

Mr. A.N. Barhate Patil, Advocate for petitioner
Mr. S.B. Pulkundwar, A.G.P. for respondents

....

CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.

DATE : 17th APRIL, 2025

PER COURT :

1. Not on board. Upon being mentioned taken on board.
2. Heard.
3. Issue notice to the respondents. Learned A.G.P. waives service of notice for all the respondents.
4. The challenge in this petition is to notice dated 15th April, 2025 issued by Respondent No.2, under Section 21(1) of the Maharashtra Highways Act, 1955, calling upon the petitioner to remove the encroachment made on the government land, within three days else action under Section

23(2)(4) of the Maharashtra Highways Act, 1955 would be initiated for removal of encroachment.

5. The petitioner claims the land under construction to have belonged to village panchayat. He occupies the same as a tenant. Some receipts have been placed on record indicating payment of rent.

6. Section 24 of the Maharashtra Highways Act, 1955 reads thus :-

“24. Appeal against notice served under sub-section (1) of section 23.

- Where the person on whom notice to remove an encroachment has been served under sub-section (1) of section 23 lays claim that the land in respect of which encroachment has been alleged is his property or that he has acquired a right over it by virtue of adverse possession or otherwise he shall within the time-limit prescribed in the notice for the removal of the encroachment, file an appeal before the Collector under intimation to the Highway Authority or the officer authorized under sub-section (1) of section 21, as the case may be. The Collector shall after due enquiry record his decision in writing and communicate the same to the appellant and the Highway Authority or such officer. The Highway Authority to such officer shall till then desist from taking further action in the matter.”

7. In view of above, the petitioner has alternate and efficacious remedy of appeal under Section 24 of the Maharashtra Highways Act, 1955. Since the petitioner has been called upon to remove the encroachment within three days and the notice period is to over tomorrow i.e. on 18th April, 2025,

we direct Respondent No.2 not to act upon the notice impugned herein for the next two weeks. In the meanwhile, the petitioner, if so advised, would prefer an appeal under Section 24 of the Maharashtra Highways Act, 1955, before the appropriate authority / Collector, who shall decide the same on its own merits.

8. In view of above, writ petition stands disposed of.

(SANDIPKUMAR C. MORE, J.)
SSD

(R.G. AVACHAT, J.)