



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

950 WRIT PETITION NO. 11930 OF 2014

PRATAP DEVENDRA CHINTALWAR

....Petitioner

VERSUS

**HIGHWAY AUTHORITY AND EXECUTIVE ENGINEER PUBLIC
WORKS DEPT NANDED AND ANOTHER**

.....Respondents

Mr. Vivek Bhavthankar, Advocate for the petitioner
Mr. R. K. Ingole, APP for the respondents/State

CORAM : ABHAY J. MANTRI, J.

DATE : 01st OCTOBER, 2025

ORAL JUDGMENT :

1. By this petition, the petitioner is challenging the order dated 02-12-2012, passed by the learned Collector, Nanded, in Appeal 2012/मशाका 2/ जमिन /टे 2/ अतिक्रमण/सी आर 171 ए whereby the appeal filed by the petitioner for challenging the notice of removal of the encroachment was dismissed.

2. Heard the learned advocate for the petitioner and learned APP for the respondents/State. Perused the impugned order and record.

3. It is pertinent to note that the petitioner has not produced any documents on record to show that he has constructed the house on his own land/plot by obtaining necessary construction

permission from the competent authority. Though he alleged that in 2001 the Grampanchayat granted construction permission, he has not produced the same on record in support of his contentions. It also appears that by a notice dated 12-04-2012, the respondent No. 1 has issued notice to the petitioner under Section 23 of the Bombay Highway Act 1955 (for short- '*the Act*') removing the encroachment from the government property. However, the petitioner did not reply to the said notice. However, he preferred an appeal U/s 24 challenging the said notice on 24-05-2012. The same was not registered as it was not preferred within the limitation and following the mandate of section 24 of the Act. However, the petitioner failed to show that he had obtained permission from the Bombay Highway authorities under Section 9 before constructing the house.

4. The learned Collector, while considering the question in dispute, has observed that "the petitioner failed to produce the alleged Grampanchayat permission granted to him to construct the house, nor produce any document to denote the area and the four boundaries of the plot of alleged property No.503/1. Similarly, without obtaining prior permission from the competent authority, he carried out the construction, thereby infringing the provisions of the law. Similarly, the learned Collector observed that as per section 7 of the Act, there is a restriction to carry out the permanent construction

within 30 meters from the highway and as per section 21 of the Act, there is a restriction to carry out construction within a 30-meter width from the highway.

5. Apart from that in para 3, the learned Collector has observed that the petitioner has not produced any evidence to show that he has not carried out encroachment within a 30-meter width from the highway. The measurement carried out by the Superintendent of Land Records was produced before the learned Collector. The petitioner did not dispute the said measurement. Therefore, there is no reason to discard the same. Thus, the learned Advocate for the petitioner failed to point out the illegality or perversity in the said order. On the contrary, it seems that the order passed by the learned Collector is just and proper. Therefore, no interference is required in the writ jurisdiction. As such, the petition being devoid of merits, stands dismissed. No order as to costs.

[ABHAY J. MANTRI, J.]