



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 WRIT PETITION NO.11117 OF 2025

KISAN RAMJI TUPE AND OTHERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. S.P. Salgar, Advocate for petitioners

Mr. R.S. Wani, AGP for respondent Nos.1 to 6

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 12th NOVEMBER, 2025

ORDER :

. Heard learned Advocate appearing for petitioners and learned AGP who waives notice for all the respondents.

2 Present petition has been filed for following reliefs :

“B) To direct respondent Nos.1 and 2 i.e. Secretary of Revenue Department and District Collector, Chhatrapati Sambhajinagar to consider and decide representation dated 07.02.2025 thereby removing the encroachment over the land owned by the petitioners from Gat No.70 of village Shindi-Sirajgaon, Tq. Gangapur, Dist. Chhatrapati Sambhajinagar, by issuing writ of mandamus or any other writ in like nature or any other order.”

3 It is stated that petitioners were the landless persons and they were cultivating the land admeasuring 11 H 59 R out of Gat No.70 situated at village Sindhi Sirajgaon, Tq. Gangapur, Dist. Chhatrapati Sambhajinagar. Land Gat No.70 was the gairan land and the petitioners had held it as encroachers. It is then stated that respondent No.2 regularized the encroachment made by petitioners as per policy formulated by respondent No.1 on 03.07.1995. The Mutation Entry is stated to have been effected in the name of petitioners. As the possession of petitioners was obstructed, the petitioners had approached learned Civil Judge Junior Division, Gangapur by filing suit bearing Regular Civil Suit No.292/1996, which came to be decreed on 28.07.1996. Again some disturbance was made in 2012, therefore, the petitioners had filed Regular Civil Suit No.257/2012 for the relief of perpetual injunction. That suit also came to be decreed. It is then stated that when the injunction was granted in favour of petitioners, there were some notorious persons, who continued their illegal activities and, therefore, the representations were made by petitioners to the respective parties. There was no response from the authorities. It is then pleaded that the notorious community had tried to make encroachment over the land of petitioners in the year 2012 and the persons from the brotherhood of petitioners have also filed Regular Civil Suit No.305/2012, which came to be decreed on 01.12.2015. The concerned persons/defendants never obeyed decree passed

against them. Then the petitioners had filed application with respondent No.2 with request to remove the encroachment made by persons by granting police aid. Respondent No.4 had given a letter to respondent No.2 for providing police aid and the protection to the possession of petitioners by communication dated 26.06.2015. Since the representations of petitioners have not been addressed and even after filing application 19.02.2020 with respondent No.2 the situation got aggravated, again they have filed application to respondent Nos.2 to 5 on 24.06.2022. Again they made representation on 07.02.2025. Hence, this petition.

4 Heard learned Advocate for petitioners and perused the documents on record.

5 The first and the foremost fact to be noted is that petitioners themselves are coming with a case that three decrees have been passed by Civil Court in their favour. Those decrees are in the form of injunction. Why petitioners have not knocked the doors of Civil Court for execution of decree whenever the further obstruction was raised, has not been explained. Further, when petitioners have stated that by order dated 03.07.1995 respondent No.5 had regularized their encroachment, whether they want to state that they have become owner, would be a question and if they have become owner of the property, then it becomes their private property and if

there is any kind of encroachment by a third person, then they will have to knock the doors of Civil Courts and it cannot be by way of any representation to revenue authorities. It is also not clear from the pleadings as to since when the encroachment, which now they want to get removed, has been made and the affected persons have not been made as party respondents herein. In view of the disputed facts and as *prima facie* we are of the opinion that the issue involved has to be dealt with by a Civil Court having competent jurisdiction over the property, we refrain ourselves from exercising powers under Article 226 of the Constitution of India. The writ petition stands dismissed.

6 In the normal course we would have imposed costs for unnecessary approaching this Court under the label for getting the representations decided, however, we refrain ourselves, taking into consideration the financial condition that is stated to be on record of the petitioners.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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