



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

935 WRIT PETITION NO.11417 OF 2025

Shakuntalabai Ashruba Ghogare And Others

VERSUS

The District Collector, Hingoli And Others

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Advocate for Petitioners : Mr. B.N. Magar

AGP for Respondents : Mr. R.S.Wani

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

Dated : November 21, 2025

FINAL ORDER :- (Per Hiten S. Venegavkar, J.)

1. The present petition instituted under Article 226 and 227 of the Constitution of India, seeks directions to the Respondents authorities to regularize the alleged encroachments upon Gayran land situated in Gat No.256 of village Ghordari, Taluka Sengaon, District Hingoli by applying the Government Resolution dated 28th November, 1991. In the alternative, the petitioners seek a direction to the Authorities to decide their pending representation concerning such regularization and further prays that the respondents be restrained from proceeding with the proposed solar energy project on the said land until the petitioners' claim are adjudicated. According to the petitioners, village Ghordari

contains nearly 300 acres of Gayran land, which has been under the possession of various landless villagers for decades, some of whose names appear in the 7/12 extracts. They rely upon panchnamas drawn by Respondent No.3 in the years 2004 and 2013, allegedly evidencing long-standing possession, as well as Resolutions of the Grampanchayat acknowledging that several villagers occupy the land.

2. The petitioners states that in the year 2023, Respondent No.3 commenced a drive to remove encroachments, which action was resisted by the villagers and therefore halted. It is their case that the authorities are attempting to remove them without following the due process contemplated in the Government Resolution dated 28th November, 1991 and without considering applications for regularization. They further rely upon the pendency of the Civil Suit and Writ Petition No.10146 of 2013 filed by certain other villagers, in which interim relief was granted restraining dispossession from Gat No.166 and 256. Notwithstanding such interim orders, the petitioners allege that the authorities attempted to disturb possession. The petitioners also contend that the State has initiated steps to allot the Gayran land to

MSEDCL for establishment of a Solar Energy Project and that despite their objections and representations including one which was filed on 27th January, 2025, the project is being pursued without considering their request for regularization and without removing them strictly in accordance with law.

3. Learned counsel for the Petitioners submits that the petitioners are in possession of the Gayran land for several decades and thus the Respondents cannot hand over possession of the land to any agency without first regularizing their occupation or following the full procedure for eviction. He argues that the Government Resolution dated 28th November, 1991 obligates the authorities to regularize encroachments where possession exists 50 years. According to him, the Panchnamas recorded from time to time and the Gram Sabha Resolution supports the fact of long-standing occupation. He therefore contends that unless regularization is granted, the authorities ought not to proceed with the Solar Power Project.

4. The learned Assistant Government pleader, on the other hand, opposes the petition and submits that the land in question is Government land reserved for public purpose. The

petitioners are encroachers and cannot claim any vested right to remain in unlawful occupation. The Government Resolution of 28th November 1991, it is submitted applies only to the encroachments recorded up to 14th April 1990 and subject to strict compliance with the conditions therein. The petitioners, it is argued, have neither established that their names appear in the statutory encroachers list for the period 1st April 1978 to 14th April 1990 nor shown any application that regularization was made during the subsistence of that scheme. It is therefore contended that petitioners cannot seek benefit under the said Government Resolution and that the action of the authorities in proceeding with a public purpose project is legal and justified.

5. We have heard learned counsel for the parties and examined the documents placed on record. A careful reading of the Government Resolution dated 28th November, 1991 reveals that the scheme of regularization contemplated therein is confined to encroachments specifically recorded in the lists prepared by the Tahsildar for the years up to 14th April, 1990. Clause 10 of the Resolution restricts eligibility only to those encroachments included in the lists covering the period

between 1st April, 1978 and 14th April, 1990. Clause-11 in unambiguous terms, declares that encroachments made after 14th April, 1990 shall not be regularized. The petitioners have not produced a single document demonstrating that their names appear in the relevant statutory lists or that any contemporaneous claim for regularization was ever made before the competent authority in accordance with the State Resolution. In absence of such foundational material, the petitioners cannot claim any right under the Government Resolution. The reliance on subsequent Panchnamas or Gramsabha Resolutions cannot override the explicit terms of the statutory scheme. We therefore find no merits in the contention that the petitioners are entitled to regularization under the Government Resolution dated 28th November, 1991.

6. We also do not find substance in the allegations that the respondents have acted without following due process of law. No material is placed before us to demonstrate any high-handed or arbitrary action on the part of the authorities. On the contrary, the record indicates that the authorities have been repeatedly informing and advising the petitioners to vacate the land so that the public project may proceed. The

land being Government land, the respondents are duly empowered to resume possession for a legitimate public purposes. The establishment of a Solar Energy project, in our considered view, squarely falls within the ambit of a public purpose aimed at promoting substantial development and public welfare. The petitioners' objection to the Project cannot fetter the discretion of the State in determining how its land should be utilized. The decisions regarding utilization of Government land lie within the exclusive domain of the executive and coerce ordinarily refrain from interfering unless there is manifest illegality or malafides which is not shown in the present case.

7. As regards the petitioners' representations, we note that the objections raised therein pertains essentially to opposing the public project. The pendency of such representations cannot operate as a bar against the State in proceeding with a project of public importance, particularly when the petitioners have failed to establish any legal right to remain on the land. A mere request or representation cannot create a substantive right where none exists. Even in the case of the representations pertaining to the regularization of their

encroachment is concerned, we find it that these representations are made belatedly as much as in the year 2023. The action of the respondents and the intentions have been clarified that the land is required for the purpose of setting up a public purpose project. One such intention has been described by the respondents, it is not justifiable now to direct the respondents to consider and decide the representations of the petitioners for regularization of their encroachment. Such belated actions are likely to impact the project of the public purpose. Even these representations cannot be directed as prayed by the petitioners.

8. In light of the foregoing discussion and in absence of any material demonstrating applicability of the Government Resolution dated 28th November, 1991 to the petitioner's case or any illegality in the actions of the respondents authorities, we find no ground to grant any relief under our writ jurisdiction. The petition is devoid of merits and accordingly stands **dismissed**. There shall be no orders as to cost.

(HITEN S. VENEGAVKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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