



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

933 WRIT PETITION NO. 864 OF 2023

Sheshrao Kundlikrao Kharat

...Petitioner

Versus

1. The State of Maharashtra
2. The Collector, Hingoli
3. The Gram Sevak,
Gram Panchayat Office
Sabalkheda,

4. Sandip Laxman Bhise

...Respondents

...
Advocate for the Petitioner : Ms. Maya R. Jamdhade
AGP for Respondent Nos. 1 and 2: Mrs. V.N. Patil-Jadhav
Advocate for Respondent No.3 : Mr. M.K. Jadhav
Advocate for Respondent No.4 : Mr. D.P. Munde
.....

CORAM : ALOK ARADHE, C.J. &
ARUN R. PEDNEKER, J.
DATE : 21st MARCH, 2025.

P.C. :

1. Rule. Rule is made returnable forthwith. With consent of the parties, heard finally.

2. In this writ petition, the petitioner *inter-alia* seeks a direction to the Collector, Hingoli to issue direction to the Gram Sevak, Gram Panchayat, Sabalkheda to remove the

encroachment, made by Respondent No.4, on the public road.

3. The facts, giving rise to file this petition, in nutshell, are that the grievance of the petitioner is that the respondent No.4 has encroached on the part of the public road. The petitioner therefore, submitted a representation on 26.12.2018 to the Gram Panchayat Office, Sabalkheda, Tq. Sengaon, district Hingoli to remove the encroachment made by respondent No.4 on the public road. The Gram Panchayat issued notice on 4.2.2019 to the Respondent No.4 to remove the encroachment from the public road within a period of one week. Respondent No.4 on 14.09.2020, produced Kabala certificate issued in the name of the father of respondent No.4. As such, the Gram Sevak forwarded a letter to the Tahsildar, seeking guidance, whether the encroachment in view of the certificate can be regularized. Since then, no action was taken by the respondent Nos. 1 to 3, to remove the encroachment made by respondent No.4 on public road, the petitioner therefore, has filed this writ petition.

4. We have heard learned counsel for the parties at length.

5. The issue whether respondent No.4 has made encroachment on the part of public road or is in possession of the land, which has been allotted to him is a question, cannot be

determined in a proceeding under Article 226 of the Constitution of India. No one can claim the right to and encroach on a public land. Therefore, in the facts and circumstances of the case, we deem it appropriate to issue the following directions:-

- I) The Gram Sevak, Gram Panchayat, Sabalkheda, Tq. and district Hingoli, shall issue notices to the petitioner as well as respondent No.4 and all other persons, who may be in possession of the public road, for a survey to be carried out. The survey shall be carried out in presence of the petitioner as well as respondent No.4.
- II) In case, after survey is conducted, it is found that the respondent No.4 or any other person is in possession of the public land, the respondents shall take action for removal of the encroachment, in accordance with law.
- III) The Collector, Hingoli shall ensure that police assistance is provided to the Gram Panchayat while removing the encroachment.
- IV. Needless to state, if any person is aggrieved by the order, which may be passed by the Gram Sevak, Gram Panchayat, Sabalkheda, shall be at liberty to take

recourse to the appropriate remedy, as may be available to him/them in law.

- V. The aforesaid exercise shall be completed within a period of three months from today.
- VI. It is made clear that this Court has not expressed any opinion on the merits of the case.
- VII. With the aforesaid directions, the writ petition is disposed of.
- VIII. Rule is made absolute in the above terms.

(ARUN R. PEDNEKER, J.)

(CHIEF JUSTICE)

rlj/