



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

**902 CIVIL APPLICATION NO. 1529 OF 2025
IN RAST/35144/2024**

**VALMIK RAJARAM GARUDKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS**

**WITH
CIVIL APPLICATION NO. 1532 OF 2025
IN RAST/1931/2025
VALMIK RAJARAM GARUDKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND ORS**

**WITH
CIVIL APPLICATION NO. 1531 OF 2025
IN RAST/1934/2025
VALMIK RAJARAM GARUDKAR
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

**WITH
CIVIL APPLICATION NO. 1530 OF 2025
IN RAST/1939/2025
VALMIK RAJARAM GARUDKAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL SECRETARY
AND OTHERS**

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Mr. Rupeshkumar C. Bora, Advocate for Applicant
Mrs. M. N. Ghanekar, AGP for the respondent/State

Mr. S. B. Parnere, Advocate for respondent Nos. 3 to 5 in W.P and 4 and 6 in R.A.

**CORAM : Y. G. KHOBRAGADE AND
: R. M. JOSHI, JJ.**

DATE : 06th FEBRUARY, 2025

PER COURT :-

1. These applications filed by applicant who claims himself to be a social worker and had filed Public Interest Litigation No. 4/2022 before this Court for seeking direction of removal of encroachments. He claims that in P.I.L. No. 4/2022 this Court vide order dated 17/08/2023 directed the authorities to take steps for removal on the encroachments allegedly done on gairan land. It is his further contention that after the said order was passed, the encroacher preferred number of writ petitions before this Court. After hearing the parties concerned, this Court directed Block Development Officer (BDO), Pathardi to send notices to the encroachers afresh and to take appropriate action there upon. Accordingly, BDO passed order of removal of encroachment, against which the encroachers filed Writ Petition bearing Nos. 5031, 5036, 5627 and 5633 of 2024 amongst other petitions of similar nature. It is the contention of the applicant that this Court has changed its view and protected the encroachers on the ground of sympathy and referred the matter to the Civil Court vide order dated 13/06/2024. Hence, these applications for review of the said order.

2. Learned counsel for the applicant submits that this Court has failed to take into consideration order passed in P.I.L. 4/2022, wherein directions were issued to the concerned authority to take action against the encroachers. It is his further submission that this Court ought not to have passed any order sympathetically and as such the impugned judgment requires review.

3. The scope of review of the judgment and order is limited to the extent that there must be an error apparent on the face of record or that the Court has not considered the material available on record. It is, however, not permissible for the Court to take any different view or to sit over its own judgment as an Appellate Court.

4. In the instant case, undisputedly the order passed in P.I.L. 4/2022 was taken into consideration by this Court while passing order impugned. At this stage it would be material to take note of the directions issued in Public Interest Litigation. The said petition was disposed off by permitting respondent No.4-Authority therein to initiate steps as permissible in law for the removal of encroachment. The alleged encroachers were asked to be issued with notices as per law. Thus, in Public Interest Litigation, this Court has permitted the action to be taken against the encroachers in accordance with law. Pursuant to the said order notices came to be

issued by the authorities. These notices were challenged by filing Writ Petition No. 5627 of 2024 and others. All parties were heard. This Court has recorded specific finding in the impugned order in paragraph No.6 which reads thus;

"6. In view of the above and in the facts and circumstances before us, the Petitioners have approached this Court. We are of the view that such disputed issues cannot be gone into and the Petitioners would have to approach either the Civil Court or abide by the notices issued to them. We are informed that the learned Vacation Court has passed an order on 22.05.2024, in Writ Petition Nos. 5036/2024 and 5031/2024, wherein, it has been recorded that the impugned notices would not be implemented till today."

5. It is thus clear that the order is passed essentially on the ground that the disputed issues cannot be gone into in a Writ Petition and therefore, it was left open for the petitioners to approach the Civil Court or abide by the notices issued to them. Merely because, this Court has observed in paragraph No.7 that it is out of the sympathy that the petitioners have protected for some time, that does not mean that the petition is allowed on sympathetic ground as claimed by the applicant. The order impugned is self explanatory. In fact impugned order issues specific direction as to how the suit is to be proceeded with to ensure that proceedings filed if any would be decided at the earliest. It is only up to 20/06/2024 the protection was granted to the petitioner to enable them to move appropriate Court. Having regard to the fact that the said

premises are occupied by the petitioners, the view taken by this Court cannot be called as inconsistent with the order passed in Public Interest Litigation.

6. We therefore find that there is no error apparent on the face of record in passing impugned order in order to review the same. Review Applications being devoid of merits stand dismissed. Pending Civil Applications, if any, stand disposed of.

(R. M. JOSHI, J.)

(Y. G. KHOBRADE, J.)

ssp