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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

PUBLIC INTEREST LITIGATION NO. 32 OF 2022

Amol Hambirrao Shinde

.. Petitioner

Versus

The State of Maharashtra & Ors.

.. Respondents

Mr. Datta H. Pawar for petitioner.

Mr. O. A. Chandurkar, Addl. Govt. Pleader and Mrs.
N. M. Mehra, AGP for respondent nos. 1 to 8.

Mr. Dheeraj D. Patil i/by Mr. Dhrupad S. Patil for
respondent nos. 47, 53 and 54.

**CORAM: ALOK ARADHE, CJ. &
 BHARATI DANGRE, J.**

DATE: 6th FEBRUARY, 2025

P.C.:

1. With the consent of the learned counsel for the parties, the petition is heard finally.

2. In this petition, which has been filed as Public Interest Litigation, the petitioner seeks removal of encroachment on the forest land i.e. land bearing Survey No. 187, situated at Shiye, Tal: Karveer, District – Kolhapur (hereinafter referred to as "the subject land") and to initiate an enquiry pursuant to Government Resolution dated 12th July, 2011. The petitioner, in addition, seeks a direction to District Collector, Kolhapur to decide the representation dated 1st February, 2020 submitted by the petitioner.

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3. We have heard the learned counsel for the parties. Undoubtedly, no individual has right to encroach on the forest land. However, whether or not an individual has encroached on a forest land is a question of fact, which cannot be determined in a proceeding under Article 226 of the Constitution of India. Therefore, in the peculiar facts and circumstances of the case, we deem it appropriate to issue the following directions:

- i. The Deputy Conservator of Forest, Kolhapur Region, Kolhapur shall issue notice to the petitioner as well as to the unofficial respondents and every other person who may be in occupation of the subject land.
- ii. The Deputy Conservator of Forest shall carry out a survey to ascertain the encroachment on the subject land.
- iii. The Deputy Conservator of Forest shall thereupon afford an opportunity of hearing to all the parties and to submit the documents in support of their claim.
- iv. In case, the subject land is found to be a government land, the District Collector, Kolhapur shall initiate an action for removal of encroachment in accordance with law.
- v. The aforesaid exercise by the District Collector, Kolhapur, shall be carried out within a period of four weeks from today.
- vi. The learned Additional Government Pleader undertakes that assistance of police shall be provided to the District Collector, Kolhapur, for removal of encroachment from the subject land, if found to be a forest land.

vii. Needless to state that any person aggrieved by the order directing removal of the encroachment shall be at liberty to take recourse to such remedy as may be available to them in law.

4. It is clarified that; this Court has not expressed any opinion on the merits of the case.

5. Accordingly, Public Interest Litigation is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)