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

PUBLIC INTEREST LITIGATION NO. 28 OF 2025

Akaram Santram Patil

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Shrishail Sakhare for petitioner.

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Addl. Govt. Pleader with Mr. K. S. Thorat, B Panel for respondent nos.1 to 3.

**CORAM: ALOK ARADHE, CJ. &
M. S. KARNIK, J.**

DATE: 29th APRIL, 2025

ORAL ORDER [Per Chief Justice]:

- 1.** Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.
- 2.** The petitioner claims to be the social worker and is retired ex-serviceman.
- 3.** In this writ petition, which has been filed as Public Interest Litigation, the petitioner, *inter alia*, seeks a direction to remove the encroachment over the public property, i.e. gairan land bearing Gat No. 18A admeasuring 08R situate at village Kadgaon, Taluka – Gadhinglaj, District – Kolhapur (hereinafter referred to as "subject land:), which is alleged to have been encroached by the respondent no.5 – Village Police Patil.

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4. Learned counsel for the petitioner submits that respondent no.5 has encroached the public land and despite representation being made to the respondents-authorities, no action has been taken by them for removal of encroachment.

5. We have considered the submissions made by the learned counsel for the parties. Undoubtedly, no individual has a right to encroach on a public land. However, whether or not an individual has encroached a public land is a question of fact, which is disputed in the facts and circumstances of the case. This Court, in exercise of inherent jurisdiction under Article 226 of the Constitution of India cannot determine the disputed question of facts. However, in a peculiar facts of the case, we deem it appropriate to issue the following directions:

(i) The Collector, Kolhapur or his authorized representative shall issue notice to the petitioner as well as to the unofficial respondent and every other person who may be in occupation of the subject land.

(ii) The Collector, Kolhapur or his authorized representative shall carry out a survey to ascertain the encroachment on the subject land.

(iii) The Collector, Kolhapur or his authorized representative 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 public land, the Collector, Kolhapur or his authorized representative shall initiate an action for removal of encroachment in accordance with law.

(v) The aforesaid exercise by the Collector, Kolhapur or his authorized representative shall be carried out within a period of four weeks from today.

(vi) The Grampanchayat, Kadgaon, Taluka – Gadhinglaj, District – Kolhapur shall cooperate the Collector or his authorized representative in the carrying out the aforesaid exercise.

(vii) The learned Additional Government Pleader undertakes that assistance of police shall be provided to the Collector or his representative for removal of encroachment from the subject land, if found to be public land.

(viii) 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 him/her in law.

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

7. Accordingly, Public Interest Litigation is disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)