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

PUBLIC INTEREST LITIGATION NO. 128 OF 2022

Smt. Priyanka Jalindar Ingavale .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

Mr. Arvind G. Ambetkar (through V.C.) for petitioner.
Mrs. Neha S. Bhide, Govt. Pleader with Mr. O. A. Chandurkar,
Addl. Govt. Pleader with Mrs. G. R. Raghuwanshi, AGP for
respondent nos.1, 2, 3, 5, 6, 8 and 9.
Mr. Ameyprasad Atigre i/by Kedar Lad for respondent nos.4
and 7.

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

DATE: 5th MAY, 2025

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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 is housewife and agriculturist and permanent resident of village Pishavi, District Kolhapur. The petitioner claims to a public spirited individual.
- 3.** In this writ petition, which has been filed as Public Interest Litigation, the petitioner, *inter alia*, seeks a direction to respondents to remove encroachments over the Government and Gairan land bearing Gat No. 1197, situate at village Pishavi, Taluka – Shahuwadi, District – Kolhapur

(hereinafter referred to as "the subject land"). The petitioner further seeks directions to respondents to take necessary legal action against the encroachers as well as the erring officers and to keep the subject gairan land for tree plantation.

4. The learned counsel for the petitioner submits that despite representation being made to the respondents, no action has been taken by them for removal of the encroachments over the subject land. The petitioner is aggrieved by the inaction on the part of the respondents/authorities in removing encroachment over the subject land.

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

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

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

(iii) The District Collector, Kolhapur or his/her authorized representative shall thereupon afford and opportunity of hearing to all the parties and to subject the documents in support of their claim.

(iv) In case the subject land is found to be government and gairan land, the District Collector, Kolhapur or his/her authorized representative shall initiate an action for removal of encroachment on the subject land in accordance with law.

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

(vi) The Sarpanch/Gamsevak, Pishavi, Taluka – Shahuwadi, District – Kolhapur shall cooperate the District Collector, Kolhapur or his/her authorized representative to the aforesaid exercise.

(vii) The learned Government Pleader undertakes that assistance of police shall be provided to the District Collector, Kolhapur or his/her authorized representative for removal of encroachment from the subject land, if found to be a government and gairan 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 them 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)