

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2906 OF 2024

Shri. Prabhakar Baburao Kedari

..Petitioner

Versus

State of Maharashtra & Ors.

..Respondents

Mr. Sumit V. Khaire, for Petitioner.

Smt. P. J. Gavhane, for Respondent-State.

CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.

DATE : 6th October 2025

P.C.

1. This Petition under Article 226 of the Constitution of India has been filed praying for the following substantive relief which reads thus :-

(a) That this Hon'ble Court may be pleased to issue an appropriate Writ or order, award, and/or direction and be pleased to direct the Respondents to take action on encroacher as per order dated 13/11/2018 passed by the Dy. Collector @ District Resettlement Officer Pune & remove encroachment on the land Gat No 1473/1 & 1473/2 Total Area admeasuring 2 H 40 R situated at Village-Shikrapur, Tal-Shirur Dist-Pune.

2. This Petition has come up for hearing from time to time and by orders dated 2nd May 2025 and 25th September 2025, the Petitioner was granted leave to amend the Petition to bring on record the encroacher i.e. Sau. Anusaya Krushnarao Pasalkar who is alleged to have encroached upon the property allotted to the Petitioner, by way of rehabilitation. However, till date the said amendment has not

been carried out and therefore we proceed to hear the aforesaid petition. The Petitioner is directed to serve a copy of this order to the alleged encroacher i.e. Sau. Anusaya Krushnarao Pasalkar within a period of one week from the receipt of this order.

3. The primary grievance of the Petitioner is that Respondent No.4 i.e. Circle Officer, Talegaon - Dhamdhere, Shirur, District- Pune has failed to take action as per order dated 13th November 2018, passed by Tahsildar (Resettlement) Pune, who by way of the aforesaid order, directed that encroachment on the land of the Petitioner be removed. Further it is also the Petitioner's grievance that Respondent No.4 has not acted upon the Order dated 23rd August 2021, passed by Respondent No.3 i.e. Tahsildar Shirur, once again ordering to remove the encroachment on the land of the Petitioner. It is also the Petitioner's contention that the measurement map clearly shows that encroachment was done on the Petitioner's land by the abovementioned encroacher i.e. Sau. Anusaya Krushnarao Pasalkar inspite of that Respondent No.4 has failed to act and remove the encroacher.

4. Brief facts leading to the aforesaid order are as follows:-

The Petitioner is citizen of India and is a Project Affected Person (PAP). In view of the fact that his land situated at village - Goregaon Taluka - Khed, District- Pune was acquired for the 'Chaskaman Dam' (hereinafter referred to as 'acquired land') under the provisions of Maharashtra Resettlement Project Displaced Persons Act, 1976 (for short 'The Act'). On 11th January 1994 and 6th March 1995, orders were passed by Respondent No.2 i.e. District Resettlement

Officer, Collector Compound, Pune as per the provisions of the Act and the Petitioner was allotted Gat No.1473 area admeasuring 1H 60R and 00 H 80 R situated at village Shikrapur District Pune.

5. The Petitioner submits that the land allotted to the Petitioner bearing Gat No. 1473 area admeasuring 1H 60R and 00 H 80R was earlier allotted to the petitioner from the southern side. Hence, the Petitioner post the aforesaid allotment filed an application on 12th September 1998, before Respondent No.2 to handover possession of Gat No. 1473 area admeasuring 1H 60R and 00 H 80R as per the corrected map i.e. western side (north-south). In pursuance thereof the Additional Commissioner, Pune Division passed an order dated 13th May 1999, and directed that the possession of the said land be given to the Petitioner from the correct side i.e. western side (north-south). The Petitioner was also handed over the Taba Pavati on 26th October 1999, handing over possession to the Petitioner from southern side of the canal area admeasuring 1H 60R and northern side of canal area admeasuring 00H 80R. In view of the aforesaid, the Petitioner was handed over a total area of 2H 40R bearing Gat No.1473/1 and 4173/2, after excluding the canal area at village Shikrapur, Taluka Shirur, District Pune. The Petitioner submits that from the year 1999-2017 he has been in possession of the aforesaid land. (hereinafter referred to as the 'said land')

6. The Petitioner submits that post 2017, other PAP/encroacher Sau. Anusaya Krushnarao Pasalkar, was allotted Gat No.1473/3 and she has removed the stone boundary mark and encroached upon the land of the Petitioner.

7. By letters dated 8th May 2017 and 9th May 2017 addressed to Respondent Nos.2 and 3 respectively, the Petitioner requested that the aforesaid encroachment made by Sau. Anusaya Krushnarao Pasalkar, be removed immediately from the Petitioner's land. Thereafter in the year 2017 a series of correspondence took place between the Petitioner and Respondent No.2, Deputy Superintendent of land record and also with Respondent No. 4 in respect of the encroachment on the said land of the Petitioner by the encroacher Sau. Anusaya Krushnarao Pasalkar. In the said correspondence, dates were fixed from time to time to fix the boundary mark in respect of the Petitioner's land so as to ascertain as to where exactly the encroachment had taken place in respect of the Petitioner's land. In fact even a letter dated 14th July 2017, was filed by the Petitioner before the Deputy Superintendent of land Record, Shirur to provide police protection at the time of fixing the boundary mark, which was responded in the positive by the Deputy Superintendent of Land Record, Shirur, requesting the Shikrapur Police Station to provide police protection. In pursuance thereof on 24th July 2017, Deputy Superintendent of Land Record, Shirur fixed the boundary mark on the Petitioner's land and prepared the map of the said measurement. On 18th November 2017, Respondent No. 4 after receipt of the earlier letters directed the Petitioner to remain present for inquiry alongwith all the aforesaid documents for inquiry before him and in pursuance thereof statement of the Petitioner was also recorded.

8. Thereafter on 20th February 2018, Respondent No.2 directed Deputy Superintendent of Land Record, Shirur, to measure the land of the Petitioner and

take action as per provisions of law. Respondent No.2 also directed Respondent No.3 to take action on the basis of measurement map and remove the encroachment on the land of the Petitioner. However, on 15th March 2018, the Deputy Superintendent of Land Record Shirur, informed Respondent No.2 that since the possession receipt and actual possession of the PAP is disputed, the land could not be measured. As a result thereof on 4th June 2018, and 18th August 2018, Respondent No.2 issued notices of hearing to the Petitioner in respect of the allotment of the said land. It is on the basis of the above inquiries and series of correspondence as referred in paras 5 and 7 above that an order dated 13th November 2018, came to be passed by Tahsildar (Resettlement), Pune which the Petitioner seeks to implement, directing Respondent No. 3 to remove the encroachment on the land of the Petitioner in view of the fact that possession receipt has been given to the Petitioner and measurement of the land has been done as per the map prepared earlier. In view thereof the order/letter dated 13th November 2018, categorically directed the Respondent No.3 to remove the encroachment on the Petitioner's land and report compliance thereof to his office.

9. Thereafter on 16th January 2019 and 17th January 2019, Respondent Nos.2 and 3 issued letter to Respondent No.4 to maintain status quo in respect of the removal of the encroachment on the said land, inspite of the fact that the date for removal of the encroachment was 23rd January 2019. The Petitioner therefore on 22nd February 2019, once again filed an application before Respondent No.2 to remove encroachment as early as possible considering the measurement map and

the order/letter dated 13th November 2018, passed by Tahsildar (Resettlement) Pune.

10. On 9th May 2019, Respondent No.2 issued letter to Respondent No.3 to remove the encroachment on the land of the Petitioner and submit the compliance in respect thereof. The Petitioner submits that inspite of the order/letter dated 13th November 2018, and 9th May 2019, the encroachment on the Petitioner's land was not removed, compelling the Petitioner to once again file an application dated 10th March 2021, before Respondent No.2 for removal of the said encroachment. Thereafter, on 25th March 2021, and 17th May 2021, letters were issued again by Respondent Nos. 2 and 3 to remove the encroachment on the Petitioner's land and specifically Respondent No.3 issued a letter to Respondent No.4 once again directing him to remove the encroachment on the Petitioner's land. Pursuant to the aforesaid letter the Respondent No. 4 issued a notice dated 25th July 2021, to the Petitioner requesting him to remain present before him on 3rd August 2024.

11. An order dated 23rd August 2021, was passed by Respondent No.3 to remove the encroachment on the Petitioner's land. In fact a letter dated 24th August 2021, was also written by Respondent No.4 to Shikrapur Police Station to provide Police protection on 7th September 2021, to enable him to carry out the removal of the encroachment on the Petitioner's land.

10. The encroacher Sau. Anusaya Pasalkar has not appeared before the Tahsildar (Resettlement), Pune and also has not challenged the order dated 13th November 2018 and 23rd August 2021 to assert her rights in respect of the said

land. In view of the above backdrop of the case and looking at the long and chequered history, in so far as the encroachment on the Petitioner's land is concerned, we proceed to pass the following order which will meet the ends of justice:-

ORDER

- i) Respondent No.4 is directed to remove the encroachment on the Petitioner's land in pursuance of the order dated 13th November 2018 and 23rd August 2021 as expeditiously as possible and preferably within a period of 6 weeks from the date this order is made available to the aforesaid Respondent by the Petitioner. Prior to taking action for removal of encroachment on Petitioner's land, Respondent No. 4 to give an opportunity to the encroacher i.e. Sau. Anusaya Krushnarao Pasalkar to make her submissions and examine her rights if any, in respect of the said land. Post the aforesaid hearing Respondent No.4 to proceed with the action of removal of encroachment on the Petitioner's land.
- ii) Respondent No.4 to apply for Police protection before the concerned Police Station on the date when the removal of the encroachment is fixed. The said Police protection be provided on the said date.
- lii) Writ Petition stands disposed of in the above terms.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)