

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 16377 OF 2024

Smt. Mehernigar Altaf Husein Baig
Versus
The Collector,
Taluka and District – Palghar, and Ors.

...Petitioner

...Respondents

Mr. Prajot Jaggi with Ms. Pallavi Kulkarni, Misbaah Solkar, Daksha Parmar i/b.
Advocate Amin Solkar, for the Petitioner.
Ms. P.J. Gavhane, AGP, for Respondent No.1 - State.

PALLAVI
MAHENDRA
WARGAONKAR

**CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 3 FEBRUARY 2025

Digitally signed by
PALLAVI MAHENDRA
WARGAONKAR
Date: 2025.02.04
19:29:08 +0530

P.C.:

1. By the order dated 8 December 2022 the Tahsildar, Palghar after hearing the petitioner is also respondent no.3 has taken following decision:-

(Translation of a photocopy of a marked
portion of an Order, typewritten in Marathi)

ORDER

- 1) Application of the Complainant is allowed.
- 2) The holder of the unauthorized structure should obtain construction permission in respect of the said unauthorized structure or should get the said structure regularized from the Collector, Palghar, as per the provisions of the Maharashtra Land Revenue Code, 1966, within the period of 6 months from the date of receipt of this Order.

- 3) If he fails to get the said structure regularized within the period of 6 months from the date of this Order then, appropriate action shall be taken as per the provisions of the Maharashtra Land Revenue Code, 1966.
- 4) No Order as to costs.”

2. The grievance of the petitioner is that the illegal construction as undertaken by the respondent no.3 which is on the petitioner's land has neither been regularised nor the same is in any manner approved. As on date i.e. after the period of more than 6 months of the aforesaid order being passed by the Tahsildar the illegal construction has not been removed. His contention is that the Collector/ Tahsildar is not taking any action and it is for such reason the petition has been filed by the petitioner being aggrieved by his rights guaranteed under Article 300A of the Constitution of India read with Article 14 of the Constitution of India.

3. The new incumbent Tahsildar is present in the Court. Ms. Gavhane, learned AGP on his instructions states that as he has recently taken charge hence he could not take immediate action. Considering the nature of the order dated 8 December 2022 passed by the Tahsildar, we expect that the Tahsildar needs to proceed to take action in accordance with law and implement his own order.

4. Respondent no.3 despite service is not represented. It also appears that respondent no.3 has no legal right and is owner of land of the petitioner. As seen from the record, there is no prohibition in law for an

appropriate action to be taken by the Tahsildar, Palghar. Respondent nos.1 and 2 are not taking any action the only inference which can be drawn is that respondent nos.1 and 2 are indirectly supporting the illegality of respondent no.3 which cannot be countenanced.

5. In this view of the matter, awaiting further appropriate action be taken of demolishing the illegal construction, we adjourn the proceeding to 11 February 2025 to be taken at 2.30 pm.

6. Let the report on the action taken in accordance with law, be placed before the Court.

7. Parties to act upon an authenticated copy of this order.

8. Stand over to **11 February 2025 at 2.30 pm.**

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]