

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

PUBLIC INTEREST LITIGATION NO.31 OF 2024

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Kailas Gajanan Somase & Ors.

..... Petitioners

Vs.

State of Maharashtra & Ors.

..... Respondents

Mr. Eknath Dhokale for the petitioners

Mr. O. A. Chandurkar, Additional Government Pleader with
Ms. G. R. Rahuwanshi, AGP for respondent Nos.1 to 4 – State

Mr. Dhairyasheel Sutar for respondent No.5

Ms. Kavita D. Vijapure for respondent No.7

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

DATE : JANUARY 30, 2025

ORDER (PER : CHIEF JUSTICE)

1. In this petition, which has been filed as PIL, the petitioner, *inter alia*; seeks a direction to the respondents to remove all encroachments, constructions, structures, shops either temporary or permanent from the Government *gairan* land i.e. land bearing gut No.13 admeasuring 8.09 hectares situated at village Dongargaon, Tq. Yeola, Dist. Nashik.

2. Learned Counsel for the petitioners submits that the encroachment caused on Government *gairan* land is required to be removed.

3. On the other hand, learned Counsel for the respondents, in unison, submits that they will take necessary action to remove the encroachment on the land in question.

4. We have considered the rival submissions made by learned Counsel for the for the parties. Undoubtedly, no individual has a right to encroach on public land. However, whether or not an individual has encroached on public land, is a question of fact which cannot be determined in summary proceedings under Article 226 of the Constitution of India. However, in the facts and circumstances of the case, we deem it appropriate to issue the following directions:

- i) The competent authority of the Grampanchayat shall issue notice to the petitioners as well as to the other persons who may be in occupation of the land in question.
- ii) The competent authority shall carry out a survey to ascertain the encroachment of the land in question.
- iii) Thereupon the competent authority shall afford an opportunity of hearing to all the parties who shall submit the documents in support of their claim.
- iv) In case the land in question is found to be a Government land, the competent authority shall ensure that the encroachments are removed within a period of four months from today.

5. Learned Additional Government Pleader, on instructions submits that assistance of the Police shall be provided to the Grampanchayat for removal of encroachment from the land in question.
6. Needless to state that any person aggrieved by the order directing removal of encroachment shall be at liberty to take recourse to such remedy as may be available in law.
7. It is clarified that this Court has not expressed any opinion on the merits of the case.
8. Accordingly, the writ petition is disposed of.

(BHARATI DANGRE, J.)

(CHIEF JUSTICE)