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

PUBLIC INTEREST LITIGATION NO. 148 OF 2024

Shabbir Abdul Shaikh

.. Petitioner

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Laxman Kalel for petitioner.

Mrs. Neha S. Bhide, Government Pleader with Mr. O. A. Chandurkar, Addl. Govt. Pleader with Mrs. G. R. Raghuwanshi, AGP for respondent nos.1 and 5.

Mr. Ravi Adsure (through V.C.) i/by Mr. Dnyaneshwar K. Sawalkar for respondent no.2.

Mr. Santosh Mali for respondent no.3-BMC.

Mr. Manish N. Jain a/w Ritu G. Gehlot i/by S. M. Jain Associates for respondent nos.6 to 7.

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

DATE: 7th MAY, 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 himself to be a social worker. The petitioner has filed this Public Interest Litigation seeking direction to the respondents-State Authorities to remove the unauthorized and illegal construction which, according to the petitioner, has been carried out by respondent nos.6 to 8 at the property situate at Chandshahwali Dargah, Powai, Niti Road, Andheri (East), Powai, Mumbai – 400 072 (hereinafter referred to as “the subject land”).

2. The learned counsel for the petitioner submits that respondent nos.6 to 8 have encroached the subject land and despite complaints being made to higher authorities, no action has been taken by the said authorities for removal of the encroachment.

3. On the other hand, learned counsel for the respondent nos.6 to 8 has disputed the above said submission made on behalf of the petitioner.

4. We have considered the rival submissions made by the learned counsel for the parties. Undoubtedly, no individual has a right to encroach on anybody's land. However, whether or not respondent nos.6 to 8 have encroached the land belonging to IIT Bombay, Powai, is a question of fact, which is disputed and cannot be determined in a summary proceeding under Article 226 of the Constitution of India. However, in peculiar facts of the case, we deem it appropriate to issue the following directions: -

(i) The Collector, Mumbai Suburban District shall issue notice to the petitioner and to the Chief Executive Officer, IIT Bombay as well as to respondent nos.6 to 8 for carrying out a survey to ascertain the encroachment on the subject land.

(ii) The Collector, Mumbai Suburban District shall carry out the said survey in the presence of petitioner, Chief Executive Officer, IIT Bombay and respondent nos.6 to 8.

(iii) The Collector, Mumbai Suburban District shall afford an opportunity of hearing to all the parties and to submit documents in support of their claim.

(iv) In case the Collector, Mumbai Suburban District finds that the encroachment has been made on the subject land belonging to IIT Bombay, Powai, the Collector shall initiate an action for removal of encroachment in accordance with law.

(v) Needless to state that any person aggrieved by the order, which may be passed by the Collector, Mumbai Suburban District, shall be at liberty to take recourse to such remedy as may be available to him/it in law.

(vi) The learned Government Pleader undertakes that assistance of police shall be provided to the Collector, Mumbai Suburban District, for removal of encroachment from the subject land, if found to be the land of IIT Bombay, Powai.

(vii) The aforesaid exercise shall be carried out within a period of three months from today.

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

6. Accordingly, Public Interest Litigation is disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)