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

PUBLIC INTEREST LITIGATION NO. 151 OF 2024

Vinod Natha Bhagat & Anr.

.. Petitioners

Versus

State of Maharashtra & Ors.

.. Respondents

Mr. Bipin Joshi a/w Sakshi Agarwal for petitioners.

Mr. O. A. Chandurkar, Addl. Govt. Pleader with Mrs. G. R. Raghuwanshi, AGP for respondent nos.1 to 4.

Mr. Sanjiv Sawant a/w Bhakti Wast i/by Samir Suryawanshi for respondent no.5.

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**CORAM: ALOK ARADHE, CJ. &
 ARIF S. DOCTOR, J.**

DATE: 18th FEBRUARY, 2025

ORDER [Per Chief Justice]:

- 1.** Rule. Rule made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.
- 2.** The petitioner is a Sarpanch of the Nimadri Gram Panchayat, Junnar, Pune. In the instant petition filed as Public Interest Litigation, the petitioner, *inter alia*, seeks a direction to respondent nos.1 and 2 to take an appropriate action for removal of unauthorized occupation by respondent no.5 of the government land, namely, Gat Nos.337, 339, 341, 343 and 346 at Village Nimgaon via Mhalunge, Taluka Junna, District – Pune.

3. Learned counsel for the petitioners submits that the respondent no.5 had encroached upon the aforesaid land which belongs to the State Government. The petitioner had sent representation to the District Collector, Pune requesting him to take action under Section 50 of the Maharashtra Land Revenue Code, 1966 for removal of encroachment, however, the representation submitted by the petitioner failed to invoke any response. Hence, this PIL.

4. On the other hand, learned Additional Government Pleader submits that in case the land in question is a government land, suitable action for removal of the encroachment shall be taken in accordance with law.

5. On the other hand, learned counsel for the respondent no.5 submits that this PIL is actuated by mala fides and has been filed for extraneous consideration and with ulterior motive. It is further submitted that the land in occupation of the respondent no.5 is the private land of which the respondent no.5 is owner and respondent no.5 has not encroached upon any government land.

6. We have considered the submissions made by the learned counsel for the parties.

7. No individual has a right to encroach on a public land. However, whether or not an individual has encroached upon a public land is a question of fact, which is disputed in the present case, this Court, in exercise of inherent jurisdiction under Article 226 of the Constitution of India, cannot determine the disputed question of facts. However, in the peculiar facts of the case, we deem it appropriate to issue the

following directions: -

(i) The Collector, Pune shall issue notice to the petitioners as well as to respondent no.5 and every other person who may be in occupation of the subject land.

(ii) The Collector, Pune shall carry out a survey to ascertain boundaries of the subject land and the extent of encroachment, if any.

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

(iv) In case, on an inquiry, it is found that the subject land is a government land, the Collector, Pune shall initiate an action for removal of encroachment in accordance with law.

(v) The aforesaid exercise by the Collector, Pune shall be completed within a period of four months from today.

(vi) The learned Additional Government Pleader undertakes that assistance of police shall be provided to the Collector, Pune for removal of encroachment from the subject land, if found to be a government land.

(vii) In case 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 him in law.

8. It is clarified that this Court has not expressed any

opinion on the merits of the case.

9. Accordingly, Public Interest Litigation is disposed of.

10. Pending Interim Applications, if any, stand disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)