

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

PUBLIC INTEREST LITIGATION NO. 24 OF 2020

Harishchandra Shantaram Mhatre ... Petitioner

V/s.

The State of Maharashtra through Chief
Secretary and Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 10171 OF 2025
IN
PUBLIC INTEREST LITIGATION NO. 24 OF 2020**

Nagrikk Hitsanvardhak Sanstha,
Kalyan Purv through President
Dr. Shubhada Sunil Salunke ... Applicant

V/s.

Harishchandra Shantaram Mhatre and Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 781 OF 2024
IN
PUBLIC INTEREST LITIGATION NO. 24 OF 2020**

Dr. Survesh Shahu Sawant ... Applicant

V/s.

Harishchandra Shantaram Mhatre ... Respondent

Mr. Gauresh Khandalekar with Mr. Nilesh J. Mohite for the Petitioner
Mr. A.S.rao for Respondent Nos. 3 to 7
Mr. Devendranath S. Joshi for the Applicant in IA 10171/2025
Mr. Jagdish G. Aradwad (Reddy) for the Applicant in IA 781/2024

**CORAM : ALOK ARADHE, CJ. AND
SANDEEP V. MARNE, J.**

DATE : 23 JULY 2025

Oral Order (Per Chief Justice) :

1. Rule. Rule made returnable forthwith. With consent of learned Counsel for the parties, heard finally.
2. In this Petition, which has been filed as Public Interest Litigation, the Petitioner, *inter-alia*, seeks a direction to Respondent Nos. 3 to 7 to take appropriate measures in respect of an illegal/unauthorized construction raised within the boundaries of Kalyan Dombivali Municipal Corporation (KDMC).
3. We have heard the learned Counsel for the parties at length.
4. A Division Bench of this Court, by an order dated 24 January 2024 had issued directions to the Respondents to carry out the survey and to take an action for removal of the encroachment.
5. In pursuance of the aforesaid order, the Sub-Divisional Officer, Kalyan has filed an affidavit stating that the survey has been conducted between 30 January 2024 to 19 March 2024 and the encroachments on the Government property as well as land reserved for public purposes have been

identified. No individual has a right to encroach on a public property. However, this Court in exercise of inherent jurisdiction under Article 226 of the Constitution of India cannot determine the disputed question of facts. Therefore, in the peculiar facts of the case, since the encroachments on the Government land has already been identified, we deem it appropriate to issue the following directions :-

(i) The Sub-Divisional Officer, Kalyan shall issue notice to the Petitioner as well as to unofficial Respondents and every other person who may be in occupation of the Government land as well as the land reserved for public purposes. Similar notices shall be issued by the Municipal Commissioner, Kalyan Dombivali Municipal Corporation, in case the land belongs to the Municipal Corporation or is reserved for public use.

(ii) The Sub-Divisional Officer, Kalyan/Municipal Commissioner, KDMC shall afford an opportunity of hearing to all the parties, and shall give them an opportunity to submit the documents in support of their claim.

(iii) After affording an opportunity of hearing, an action for removal of encroachments in accordance with law shall be taken.

(iv) The assistance of the Police shall be provided to the Sub-Divisional Officer, Kalyan and the Municipal Commissioner, KDMC for removal of encroachments from the Government land as well as the land reserved for public use.

(v) Any person aggrieved by the order directing removal of encroachments shall be at liberty to take recourse to such remedy as may be available to them in law.

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

6. Accordingly, the Public Interest Litigation and the Interim Applications are disposed of.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)