

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3644 OF 2025

Chandravati Vasudev Acharya & Anr.

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Ms. Medha Jondhale with Ms. Rajnandini Jondhale i/b. Mr. Anand Jondhale and Mr. Harshvardhan Shinde for Petitioners.

Mr. Ketan Chothani with Mr. Manan Jaiswal i/b. MLS Vani & Associates for Respondent Nos.5, 6 & 7.

Ms. P. J. Gavhane, AGP for State.

CORAM : G. S. KULKARNI &
ADVAIT M. SETHNA, JJ.
DATE : 17 APRIL 2025

P.C.:

1. We have heard learned counsel for the parties.
2. This petition under Article 226 of the Constitution of India is filed praying for the following reliefs:

a) Pass a writ of mandamus or any other appropriate order or direction thereby declaring that the construction -encroaching upon the way to the Petitioners house by Respondent No.5, 6 and 7 as illegal, void and inoperative; and

b) Issue a Writ of Mandamus or any other appropriate writ, directing the Respondents No.1 to 4 to remove the illegal encroachment from the public/private way/path adjoining the Petitioner's property.

c) Direct the concerned authorities to take immediate action to restore the lawful access to the Petitioner's property and business.

- d) Ad-interim relief in terms of prayer clause (a);
- e) Pass any other order or direction as this Hon'ble Court may deem fit and proper in the interest of justice."

3. Considering the nature of the submissions which were made before us at the previous hearing, i.e., on 25 March 2025, we had passed an order on *prima facie* consideration of the matter and on the grievance of the petitioners that there is a breach of their fundamental rights, in the manner as averred in the writ petition to the effect that the petitioners who are two ladies are facing harassment at the hands of respondent nos.5 to 7. It is in such context, we desired that a clear independent and an unbiased report of the factual situation be placed before the Court. We had accordingly directed an independent officer of the adjoining district, namely, the Additional Collector, Thane to make an enquiry on such case of the petitioners, to be undertaken and monitored and confirmed by the participation of an independent judicial officer, nominated by the learned Principal District Judge, Thane. Accordingly a report from these Officers was called for. Pursuant to the said orders, learned Principal District Judge deputed learned District Judge, Thane so as to visit the site/premises along with the Additional Collector, Thane. Accordingly a report is placed on record of this Court. Having perused the report, we are more than satisfied that there is no breach of fundamental rights of the petitioners as asserted in

the petition and the dispute in the context of the prayers as made for (supra) is purely a private dispute between the petitioners and respondent nos.5 to 7.

4. Further the reliefs as prayed for in the petition, *ex facie* are of a nature which need to be asserted in a civil suit. It may not be possible for this Court in exercise of the writ jurisdiction under Article 226 of the Constitution of India to adjudicate any disputed questions of fact and decide the validity of the construction and/or any encroachment etc. as prayed for by the petitioners. We are hence not inclined to entertain this petition.

5. In this view of the matter, we dispose of this petition permitting the petitioners to approach the Civil Court by filing an appropriate civil suit if the petitioners have any grievance in regard to the construction and/or the encroachment etc., which is an *inter se* dispute between the petitioners and respondent nos.5 to 7. All contentions of the parties in that regard are expressly kept open.

6. The report of the learned District Judge and the Additional Collector was meant only for the purpose of this petition and the same shall not be available to any of the parties for any purpose in any proceedings. The parties are free to assert their contentions in the proceedings either which are pending or *inter se*, without being entitled to the copy of this report.

The report be maintained in a sealed envelop with the Registrar (Judicial).

7. The petition accordingly stands disposed of in the aforesaid terms.

No costs.

[ADVAIT M. SETHNA, J.]

[G. S. KULKARNI, J.]