

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7348 OF 2025

Mahadeo Kondiba Bhosale & Ors.

...Petitioners

Vs

The State of Maharashtra & Ors.

...Respondents

Mr. Dilip Bodake for Petitioners.

Mrs. M. P. Thakur, AGP for State/Respondent Nos.1 to 4 & 8.

Mr. A. V. Hardas for Respondent Nos.9 & 10.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATE: 25 JULY 2025.

P.C.

1. By our order dated 17 June 2025, this petition was disposed of considering the settled principles of law laid down by the Supreme Court in **Jagpal Singh & Ors. Vs. State of Punjab & Ors.**¹ that there cannot be any encroachment or change of user in Gairan land. In terms of the observations made by us in paragraphs 3 to 5, we had disposed of the writ petition in the following terms:-

“3. The primary grievance of the petitioner, that insofar as the village is concerned there is a “Gairan land” which has been illegally encroached and unauthorized construction has been put up. The petitioner contended that this is in gross breach of the law as laid down in the decision of the Supreme Court in Jagpal Singh & Ors. Vs. State of Punjab & Ors¹. The petitioner, accordingly made a representation to the Chief Executive Officer, Zilla Parishad, Satara. In pursuance of such grievance/complaint as made by the petitioner, a notice was issued by the Respondent No.7 Block Development Officer to the Gram Panchayat that the unauthorized construction on the “Gairan land”, be removed. Such notice was dated 11 March 2023, however, no action whatsoever was taken. The petitioner again addressed representation that the notice dated 11 March 2023 has not been complied and in pursuance thereto a fresh communication was addressed by the Block Development Officer to the Gram Panchayat calling upon the Gram Panchayat to take

¹ (2011) 11 SCC 396

appropriate action to remove the unauthorized construction.

4. We are of the clear opinion that the orders which were passed by the Block Development Officer (BDO), were required to be complied by the Gram Panchayat, which were certainly binding on the Gram Panchayat. There is nothing on record to show that such orders passed by the BDO in any manner are not valid. No encroachment or construction on the "Gairan land" is permissible, considering the settled principles of law as laid down by the Supreme Court in Jagpal Singh & Ors. Vs. State of Punjab & Ors (supra).

5. In this view of the matter, we are inclined to dispose of this petition by directing the Gram Panchayat to take appropriate action in accordance with law to remove the unauthorized construction, if already not removed. Let such action be taken within a period of four weeks from the day a copy of the order is placed before the Gram Panchayat."

2. Today we are informed by learned counsel for respondent nos.9 and 10 that Grampanchayat, Bijawadi, has already approached the Deputy Superintendent of Land Records for measurement of land and once the measurement is undertaken, an appropriate action can be taken to remove the encroachment.

3. We are not satisfied with the plea as urged on behalf of the Grampanchayat that if the Gairan land is already known and on the record of the Grampanchayat, the Grampanchayat ought to have proceeded to remove those structures. In the absence of the information being provided in the manner known to law, it cannot be that the private persons can claim ownership of Gairan land. Such plea of measurement now sought to be taken by referring the issue to the Deputy Superintendent of the Land Records under the garb of a measurement *prima facie* appears to be an eye wash. The Grampanchayat would be required to ascertain the legality of all the structures, which are on the side of the road, even including the structures which are pointed out by the petitioner, subject matter of petition/representation dated 11 March 2024 and take an appropriate action.

4. It appears that there is some mischief being played by the Sarpanch or by the Gramsevak Shrikant Shrish Bhunje. Hence, if our *prima facie* opinion is ultimately considered to be correct that there is some attempt to defeat the order passed by this Court, we would have no alternative but to proceed to take an appropriate action, as the law would mandate against such persons who were responsible to comply with the Court's order.

5. With such observations, we adjourn the proceedings, so that further appropriate action can be taken.

6. The Deputy Superintendent of Land Records shall give details of the measurement and/or demarcation of the land to the Grampanchayat, however, this would not be a condition precedent for the Grampanchayat to comply with the Court orders, which in fact need to comply with the directions of the Supreme Court in **Jagpal Singh** (supra).

7. List the proceedings on **08 August 2025 (H.O.B.)** for further compliance.

8. Learned AGP to inform to the Deputy Superintendent of Land Records to complete the measurement within 10 days from today.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)