

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.15942 OF 2025

Digambar Bhagoji Kedari and others

Petitioners

versus

The State of Maharashtra and others

Respondents

Mr.Suresh Sabrad with Mr.Amey C.Sawant, Ms.Neha Parte, Mr.Pratik Sabrad,
Ms.Eshwaree Kudalkar for Petitioners.

Ms.Savita Prabhune, AGP, with Mr.Kedar B.Dighe, Additional G.P for Respondent

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 26th November 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs :

“a) by an appropriate writ, order or direction, this Hon’ble Court be pleased to hold the action of Respondents of trying to realign, construct or carve out any road through the unacquired portion of land admeasuring 64 Ares of Petitioners’ from land bearing Gat No.218, situated at Village Kusgaon, Taluka Maval, District Pune, without conducting a fresh acquisition under the applicable land acquisition laws and without following due process, as illegal, bad in law and malafide;

b) by an appropriate writ, order or direction this Hon’ble Court be please to direct the Respondents to follow due process of law to realign, construct or carve out any road through the unacquired portion of land admeasuring 64 Ares of Petitioners’ from land bearing Gat No.218, situated at Village Kusgaon, Taluka Maval, District Pune;

c) by an appropriate writ, order or direction, this Hon’ble Court be pleased to direct the Respondents, their servants, agents or

subordinates not to disturb, enter upon or in any manner interfere with the peaceful possession and enjoyment of Petitioners' land bearing Gat No.21 admeasuring 64 Ares situated at Village Kusgaon, Taluka Maval, District Pune, in any manner whatsoever."

2. We have heard Mr.Sabrad, learned counsel for the Petitioners and Ms.Prabhune, learned AGP for the State. The grievance of the Petitioners is that the Branch Officer of the Irrigation Department of Kasarsai Irrigation Project issued a notice dated 18th June 2025 to the Petitioners, which was in fact acted upon and the structure which is stated to be put up by the Petitioners, has now been demolished on 25th November 2025 on the ground that there was an encroachment by the Petitioners on the land which is in the irrigation zone and on which no construction could have been undertaken, as the said land is completely within the control of Irrigation Department being acquired for such public purpose. Also the land is stated to be adjoining the dam. The Petitioners in response to the said notice dated 18th June 2025 filed their reply dated 17th June 2025, inter alia, contending that there is no encroachment and that the shed is in fact on the land which is not acquired.

3. We, however, find that the notice dated 18th June 2025, Exhibit-V, page 123 of the petition, issued by the Branch Officer of the irrigation project, does not in any manner mention any survey numbers or the actual area on which the encroachment has been made by the Petitioners. In the aforesaid circumstances, we are of the opinion that it will be appropriate that the said Branch Officer issues an appropriate notice to the Petitioners setting out all the details in regard to the actual land which he needs to protect, along with description of the survey number/s of the land on which such encroachment has been made by the Petitioners. The

notice shall also clearly set out whether the land belongs to the Petitioners or the land is acquired and is within the control of Irrigation Department. Such notice be issued within a period of two weeks from today. The Petitioners shall respond to the said notice along with all documentary evidence. The Branch Officer of the Irrigation Department shall hear the Petitioners and take an appropriate view of the matter based on the documents which will be placed on record in reply to the notice by the Petitioners by passing a speaking order. All contentions of the parties in that regard are expressly kept open.

4. The Petitioners shall not raise any issue in respect of jurisdiction of the said Branch Officer considering that the illegal construction has already been demolished by the Irrigation Department, status-quo as of today be maintained, meaning thereby that the Petitioners shall not reinstall the structure which is demolished, and no further action be taken by the Respondents on possession till appropriate orders are passed as observed hereinabove

5. All contentions of the parties are expressly kept open.

6. In the event any order adverse to the Petitioners is passed, status-quo shall continue to operate for a period of one week from the date of communication of the said order.

7. Petition stands disposed of. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)