

Jvs.

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

**PUBLIC INTEREST LITIGATION NO. 205 OF 2023
WITH
INTERIM APPLICATION NO. 7634 OF 2025**

Ratan Soli Luth	}	Petitioner
versus		
The State of Maharashtra & Ors.	}	Respondent

Mr. Abhijit Kasar with Mr. Gaurav Shrivastav
for petitioner.

Ms. Neha S. Bhide, Government Pleader with
Mr. O. A. Chandurkar, Additional Government
Pleader and Ms. G. R. Raghuwanshi, AGP for
respondents 1, 2, 6, 8, 14 & 15 (State).

Mr. M. L. Patil for respondents 3, 4, 9 & 10
(Nashik Municipal Corporation).

**CORAM: ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.
DATE: JUNE 13, 2025**

ORDER: (Per Chief Justice)

- 1.** Heard learned counsel for the parties.
- 2.** Rule. Rule is made returnable forthwith. With the consent of learned counsel for the parties, heard finally.
- 3.** In this writ petition, which has been filed as Public Interest Litigation (PIL), the petitioner, *inter alia*, has assailed the inaction on the part of the respondents in failing to take action in respect of unauthorised construction carried out in Siddharth Nagar Jhopadpatti, Nashik, situated on CTS Nos. 7390, 7392 and 7380 within the limits of Nashik Municipal Corporation.

4. The petitioner claims himself to be a social activist and involved in the education field.

5. Learned counsel for the petitioner submitted that suitable directions be issued to the respondents to remove the unauthorised constructions from the land/area in question.

6. On the other hand, learned Government Pleader appearing for respondents 1, 2, 6, 8, 14 and 15 (State) and the learned counsel for respondents 3, 4, 9 & 10 (Nashik Municipal Corporation) submitted that suitable action in accordance with law shall be taken.

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

8. The issue whether or not anybody has encroached on the public land or raised unauthorised constructions is a question of fact and normally is disputed. The aforesaid fact cannot be adjudicated in exercise of summary jurisdiction under Article 226 of the Constitution of India as this Court normally is not examining disputed question of facts. However, in the peculiar facts and circumstances of the present case, we deem it appropriate to issue the following directions:

(i) The Municipal Commissioner/Collector, Nashik or his authorised representative shall issue notice to the petitioner as well as to the respondents and to other persons who may be in occupation of the land in question/unauthorised construction.

(ii) Thereupon, the Municipal Commissioner/Collector or his authorised representative shall carry out survey to ascertain the encroachment on the land in question.

(iii) Thereafter, the Municipal Commissioner/Collector or his representative shall offer an opportunity of hearing to the parties and to submit documents in support of their claim.

(iv) In case the subject land is found to be a Government/Municipal land, the Municipal Commissioner/Collector or his authorised representative shall initiate action for removal of encroachment in accordance with law.

(v) The aforesaid exercise shall be concluded within a period of 12 weeks from today.

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

9. Needless to state that any person aggrieved by an order directing removal of encroachment shall be at liberty to take recourse to such remedy as may be available to them in law.

10. It is clarified that this Court has not expressed any opinion on the merits of the case.

11. With the aforesaid directions, the PIL is disposed of.

12. The interim application stands disposed of accordingly.

(SANDEEP V. MARNE, J.)

(CHIEF JUSTICE)