



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPW) NO. 13 OF 2025

IN

CRIMINAL WRIT PETITION NO. 681 OF 2016

Santosh Ramdas Dhore and ors. -Vs-The State of Maharashtra and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr.A.P.Tathod, counsel for the petitioners.
Ms. S.S.Jachak, APP for respondent Nos.1 to 4 and 6.
Ms. S.W.Deshpande, counsel for respondent No.5.
Mr.Mangesh V.Bute, counsel for intervenors.

**CORAM: NITIN W. SAMBRE AND
MRS.VRUSHALI V. JOSHI, JJ.**

DATE : 4th FEBRUARY, 2025.

1. This is an application for intervention.
2. The pleadings depicts that the applicants are served with the notice for removal of encroachment pursuant to the earlier orders passed by this Court.
3. The notices give an independent cause of action to the petitioners. Through this application, the petitioners are not only trying to seek intervention, but are also orally seeking relief of an injunction order.
4. Since, in our opinion, alleged intervenors/applicants in the application have an independent remedy, we are not inclined to entertain this Criminal Application. The application stands rejected. However, the applicants are at liberty to take recourse to such remedy as is permissible and available in law.

5. Criminal Application stands disposed of.

CRIMINAL WRIT PETITION NO. 681 OF 2016

1. Based on the revenue record entries, in Gat No.79 the petitioners have approached before this Court claiming that the Revenue entries, which depicts use of the part of the said land for public purposes such as puja/festivals/public celebrations viz pola has been encroached.

2. This Court after having taken note of the same, caused notice to the respondents vide order 31/08/2016. This Court was sensitive to the fact that in the proceedings under Section 144 of the Code of Criminal Procedure prohibitory order was passed. Thereafter, this Court directed the respondents to file an affidavit-in-reply in the matter.

3. This Court vide an order dated 28/08/2017 granted Rule in the matter and thereafter on 07/09/2018 permitted the State Government to explain as to why the encroachment on the Government land has not been removed.

4. Since the encroachment was not removed, the Court again gave an opportunity to the respondents vide order dated 14/09/2018 to demonstrate as to why the action of removal of encroachment was not carried out. The Court further observed that the respondents shall be saddled with the costs in such an eventuality.

5. By an order dated 18.03.2019, this Court granted time to the respondent No.5 i.e. Village Panchayat, Mahagaon to file an affidavit. The Court having regard to the fact that the aforesaid land belongs to the State Government and was used for public purposes, by an order dated 21.11.2022, this Court had directed to the Collector to file an additional affidavit-in-reply clarifying the issue about the encroachment.

6. It appears from the record that the respondent No.2-Collector should have dealt with the issue in serious and sensitive manner, but has not taken any steps so as to report the compliance of the earlier orders.

7. Rather, it is pointed out that the conduct of the Collector has led to the land in question being not only encroached, but permanent structures are being erected.

8. We fail to understand as to from where the Collector gets an opportunity to permit the encroachment on the land in question without taking action of removal of encroachment. As such on the last date, we have permitted the Collector to file an affidavit in the matter vide order dated 17/01/2025.

9. The learned Additional Public Prosecutor through an affidavit sworn by the Tahsildar on behalf of the Collector has demonstrated that the notices for

removal of encroachment are issued to some of the encroachers.

10. The fact remains that the notices are issued belatedly i.e. on 09/01/2025, whereas the orders of this Court directing the Collector to remove the encroachment were of 07/09/2018 and 14/09/2018.

11. In this background, even today also the respondent-Collector but for issuance of notices for removal of encroachment has not taken any serious steps in the matter to comply with the orders of this Court.

12. That being so, *prima facie*, we are satisfied that the respondent No.2 is acting in the contempt of the orders of this Court referred above.

13. We were about to issue contempt notice to the respondent No.2- Collector, however, it is upon assurance given by the learned Additional Public Prosecutor that the Collector shall by next date demonstrate the action taken in the matter of compliance with the orders of this Court by filing an additional affidavit. We restrain ourselves from initiating contempt proceedings against the Collector.

14. As prayed, stand over to 24/02/2025.

(MRS. VRUSHALI V. JOSHI, J.)

(NITIN W. SAMBRE, J.)