



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

927 WRIT PETITION NO.1022 OF 2026

MUSTAFA DILWARKHAN PATHAN

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. R.P. Bhumkar, Advocate for petitioner

Mr. S.B. Narwade, AGP for respondent Nos.1 to 4

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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

DATE : 26th FEBRUARY, 2026

ORDER : (PER : HITEN S. VENEGAVKAR, J.)

. Present petitioner, who claims to be a social worker, is resident of village Satara and has filed this petition seeking directions to respondent No.2 to decide the proposal and take appropriate action against encroachers in accordance with Government Resolution dated 12.07.2011 and also in accordance with Judgment passed by the Hon'ble Apex Court and further to demolish the encroachment which is situated on land Gat No.1 admeasuring 10 H 39 R at village Sompuri, Tq. Paithan, Dist. Chhatrapati Sambhajinagar.

Petitioner also seeks directions that the respondents be directed to take criminal action against encroachers in view of circular dated 10.10.2013.

2 It is the case of petitioner that petitioner had preferred several applications to the office of Tahsildar, Collector and Divisional Commissioner, Chhatrapati Sambhajnagar on the ground that land Gat No.1 admeasuring 10 H 39 R situated at village Sompuri is a Government land and is being encroached by some villagers and house construction is being done by villagers. As the land is encroached, there are continuous quarrels between the encroachers, affecting the peace in nearby villages and residents has been breached. There is also question of law and order in the village Sompuri due to these encroachers. The petitioner states that he has been highlighting this issue with the authorities, time and again, however, there is no action initiated by respondent authorities for removal of the encroachment and no action against the encroachers. Learned Advocate appearing for petitioner argued that in view of Judgment of the Hon'ble Supreme Court in the case of **Jagpal Singh and others vs. State of Punjab and others** [Civil Appeal No.1132/2011 @ SLP (C) No.3109/2011 (Arising out of Special Leave Petition (Civil) CC No.19869 of 2010)] decided on 28.01.2011, the Hon'ble Supreme Court has specifically directed that the land belonging to Government should be preserved from all kinds of encroachments and if at

all there is an encroachment, then the Government should take necessary action so as to remove the same. He argues that the encroachment should therefore be immediately removed and the vacant land should be taken up by the Government for its appropriate purpose. On perusing the copy of petition along with the documents those have been annexed, it has come to our notice that the persons who are residing in the houses constructed on Gat No.1 of village Sompuri have already submitted their regularization proposal to the office of Divisional Commissioner and to the office of Tahsildar and the said regularization proposal is under consideration. This is clearly reflected in the communication that has been addressed by the Tahsildar, Paithan to the office of Divisional Commissioner, Aurangabad dated 08.08.2022. On raising a query with the petitioner's Advocate, as to whether petitioner has raised any objection to the regularization proposal submitted by the said alleged encroachers, learned Advocate submits that he has no instructions whether the objection has been raised. However, once it has come to our notice that this statutory proceeding of regularization is pending before the authorities and the authorities are in the process of deciding the same. The Law has already set in motion. We feel it appropriate that if at all petitioner is aggrieved by encroachments, he may approach the authority by way of objection to the said regularization proposal. In the present factual matrix and admitted position that the regularization proposals are pending for

adjudication, no mandamus can be issued to the authorities to remove the encroachments by exercising jurisdiction under Article 226 of the Constitution of India. Keeping open the issue as to whether the petitioner feels it appropriate to pursue his objections before the regularizing authority, the writ petition stands **disposed of**. No order as to cost.

(HITEN S. VENEGAVKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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