



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

WRIT PETITION NO. 6900 OF 2024
Shaikh Harun Shaikh Suleman @ Dhannu
Vs.
Bapurao Kisanrao Khode and others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Alok H. Daga, Advocate for petitioner.
Shri S. S. Bhalerao, Advocate for respondent no. 1
Ms. M. R. Kavimandan, AGP for respondent nos. 3 and 4/State.

CORAM :- M. W. CHANDWANI, J.

DATED :- 06.02.2026

Heard.

2. The petition challenges the order dated 04.10.2019 passed by respondent no. 3- the Additional Collector, Amravati in Gram Panchayat Case No. 06/Section-53(2-A) Peth Ragunathpur/2018-19 whereby the petitioner was directed to remove encroachment on the government land. The said order came to be confirmed by respondent no. 4- the Additional Divisional Commissioner, Amravati vide order dated 20.03.2020 in Appeal No. 143/BVP/53(2-A)/Peth Ragunathpur/2019-20.

3. Heard learned counsel for the petitioner, learned AGP for the State as well as learned counsel for respondent no. 1. Having gone through the record, it

reveals that respondent no. 1 owns a house having area 1056 sq. feet situated in village Peth Ragunathpur. The petitioner constructed a house on the backside of the house of respondent no. 1 without leaving any space for repairing the wall of the house owned by the respondent no. 1. Respondent no. 1 applied before the Additional Collector for removal of encroachment i.e. construction done by the petitioner on the government land. The Additional Collector by the impugned order allowed the application of respondent no. 1 and directed the petitioner to remove his encroachment. An unsuccessful attempt for relief was made by the petitioner before the Additional Divisional Commissioner by filing an appeal. Feeling aggrieved with dismissal of the appeal, the present Writ Petition is filed.

4. The contention of learned counsel for the petitioner is that the petitioner is occupying the land with permission of respondent no. 2- Gram Panchayat, Peth Ragunathpur therefore, he is in permissive possession of the land. On the other hand, respondent no. 1 did not leave any space in his plot by constructing the house on the entire land rather on more than the plot area and he cannot seek direction for removal of construction of the petitioner as respondent no. 1 has no *locus standi*.

5. The submission is that these aspects have not been considered either by the Additional Collector or the Additional Divisional Commissioner therefore, the

impugned orders requires correction. That apart, it is also submitted that no encroachment was done by the petitioner, therefore findings recorded regarding encroachment by the petitioner is perverse.

6. The learned counsel for respondent no. 1 submitted that the petitioner is nothing but an encroacher. He has encroached on the Gram Panchayat land and has the audacity to construct a house; that to adjoining to the house of respondent no. 1, leaving no space between the two houses. According to him, the orders passed by both the Authorities are correct. The learned AGP also supported the impugned orders.

7. Perusal of the orders impugned reveals that the Gram Panchayat has come up with a stand that the petitioner was allowed to occupy the said land however, there are specific findings recorded by the Additional Collector that there is no such resolution passed by the Gram Panchayat nor any document has been executed in favour of the petitioner; allotting the said land to the petitioner. Therefore, his possession over the land is nothing but encroachment and therefore passed the impugned order. Nowhere it is the case of the petitioner before the Additional Collector that the land was allotted to him by Gram Panchayat on Patta or by executing any deed. In absence of any title in any form, the possession of the petitioner is nothing but an encroachment. Therefore, no perversity is seen in the findings recorded

by the Additional Collector as well the Additional Divisional Commissioner.

8. Sofaras, the submission of learned counsel for the petitioner that measurement is *sine quo non* for passing the order of removal of encroachment, let me state that it is not the case that the petitioner owns the land on which he has constructed the house. The land belongs to the Gram Panchayat and the house is constructed by the petitioner by encroaching upon the entire land therefore, there is no question of any measurement of land to identify extent of encroachment.

9. Hence, there is no merits in the petition and accordingly it is dismissed.

(M. W. CHANDWANI, J.)