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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**BENCH AT AURANGABAD**

**PUBLIC INTEREST LITIGATION NO.12/2016**

Ram Haribhau Ugale.

...Petitioner..

**Versus**

The State of Maharashtra & others.

...Respondents...

.....

Shri Shrikant T. Veer, Advocate for petitioner.

Shri A.B. Girase, Govt.Pleader for respondent nos.1 to 5.

.....

**CORAM: R.M. BORDE &**

**K.L. WADANE, JJ.**

**DATE: 20.06.2016**

**ORDER :**

1] Leave to add Municipal Council, Bhokardan Dist.Jalna as party respondent.

2] Issue notice to the respondents returnable on 16.7.2016.

3] The petitioner has approached this Court by way of presenting the instant Public Interest Litigation making certain allegations against the respondent no.6. One of the allegations is in respect of encroachment committed by the respondent no.6 on the public property and raising of construction without securing proper permission from the planning authority.



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4] In paragraph no.8 of the affidavit in reply presented on behalf of the State, it is stated that the record of the Revenue Department shows that the Survey No.39 does not belong to the respondent no.6 – Raosaheb Danve and there is no entry recorded in his name. In Survey No.39, land admeasuring 10 Acres is owned by the Cooperative Housing Society and a plot admeasuring 60 x 60 ft. numbered as 1720 is owned by one Mr.Dadarao Danve. The record further shows that the construction has been raised over the plot after observing due procedure i.e. after securing necessary building permission. The property is recorded in the Property Tax Register having No.3199. In view of the explanation tendered, the allegation made in respect of raising of construction in unlawful manner has not been substantiated.

5] The second allegation made in respect of raising of compound wall thereby making encroachment on the land belonging to the Public Works Department is concerned, the said allegation has also not been substantiated. The Executive Engineer of the Public Works Department, Jalna, in his letter dated 26.2.2016 has clarified that there is no encroachment on the land belonging to the Public Works



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Department and that the compound wall that is constructed is 15 meters away from the central line of High Way No.223. In this view of the matter, the second allegation in respect of making of encroachment over the public property also has not been substantiated.

6] The third allegation in respect of allotment of land belonging to Municipal Council, Bhokardan, in favour of Moreshwar Shikshan Prasarak Mandal is concerned, the explanation needs to be called from the said Municipal Council. It appears that an agreement has been executed with the Municipal Council by the said educational institution on 21.6.2011 whereunder the property prescribed as reservation Site No.36 has been allotted to the institution on rent and the possession has also been handed over on 21.6.2011. The property appears to have been allotted for unspecified period and until the institution carries on the educational activities. The agreement also does not refer to the rent amount. It is contended that the educational institution has paid the rent amounting to Rs.3,60,000/- on 14.3.2016. The period for which the rent has been charged and the rate has not been specified in the rent receipt. It also does appear



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that the lease of the Municipal property is for a period exceeding three years. There is nothing to indicate that the prior sanction of the State Government has been secured. The planning authority i.e. Municipal Council shall clarify in respect of the aforesaid objection / illegality.

**(K.L. WADANE, J.)**

**(R.M. BORDE, J.)**