

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 888 OF 2014

Shivaji s/o. Rustumrao Dongre

....Petitioner.

Versus

The State of Maharashtra & Anr.

....Respondents.

Mr. A.A. Mukhedkar, Advocate for petitioner.

Mr. U.H. Bhogle, APP for State.

CORAM : T.V. NALWADE, J.

DATED : 3rd July, 2015.

ORDER :

1. The petition is filed to challenge the order made by the District Magistrate, Parbhani under section 144 of Criminal Procedure Code and dated 9.6.2014 and also the judgment and order of Criminal Revision No. 60/2014, which was pending in the Sessions Court, Parbhani. The learned counsel for petitioner and the learned APP are heard.

2. The District Magistrate had issued order under section 144 of Cr.P.C. in respect of eight lands situated at various places at Parbhani, total area of which is 400 Acres. It was issued to prevent the persons from making encroachment on the Government land and from preventing them to use it for residence purpose or throwing garbage etc. It was made with the

intention to prevent the entry of unauthorized persons and the revenue officers and police officers were expected to see that these lands are protected. This order was challenged in revision by the petitioner. It is his contention that in the year 2003, the Managing Director of Government Corporation from Agricultural Department had given Survey No. 260 from village Takali, Tahsil Parbhani to him for the purpose of cultivation for period of 5 years. Along with it, the rate for the use and conditions which were to remain in existence for five years were given, but the land was only given for 5 years. It is the case of petitioner that after expiry of period of five years, he did not hand over the possession and he has been in possession.

3. There is no record with the petitioner to show that after expiry of five years from 2003, new agreement was made in favour of the petitioner or he had paid the amount in subsequent years. He was expected to pay atleast Rs. 18750/- per year for the period of five years mentioned in the agreement and as against the agreement, the security of only Rs. 25,000/- was given. Thus, there is no record to show that amount of consideration was given by him at any time.

4. The learned counsel for petitioner submitted that the

petitioner has become tenant or atleast statutory tenant of this land. This proposition is not at all accepted in view of the nature of agreement and aforesaid circumstances. There is nothing with him to show that he was allowed to continue the possession. The encroachments made by persons like the present applicant can be removed even under the provisions of Maharashtra Land Revenue Code. However, this was no question of removal of encroachment and order under section 144 of Cr.P.C. is made only to see that persons do not make encroachment and they do not start using Government land. As no right as such is there in favour of the present petitioner in respect of the land, there is no possibility of interference in the order made by the District Magistrate.

5. In the result, the petition stands dismissed.

[T.V. NALAWADE, J.]

ssc/