

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

CRI.APPLN/7008/2014

SURAJISING S/O TRIMBAKSING GHUSINGE
V/S
THE STATE OF MAHARASHTRA

WITH
CRI.APPLN/6423/2014

VISHNU S/O BHOJA CHAVAN AND OTHERS
V/S
THE STATE OF MAHARASHTRA

WITH
CRI. APPLN/6340/2014

ANAND S/O TUKARAM KAKDE
V/S
THE STATE OF MAHARASHTRA

WITH
CRI. APPLN/6464/2014

DEVAKABAI W/O SHESHARAO CHAVAN AND ANOTHER
V/S
THE STATE OF MAHARASHTRA

Mr. Ajinkya Kale h/f. Mr. S.B.Talekar, Advocate for applicant in CA No. 7008/14.

Mr. Sachin Deshmukh, Advocate for applicants in CA No. 6423/14.

Mr. Mayur V. Salunke, Advocate for applicant in CA No. 6340/14.

Mr. R.J. Nirmal, Advocate for applicants in CA No. 6464/14.

Mr. P.M. Gaikwad, Advocate for respondent No. 2 in CA No. 6340/14.

Mr. M.M. Nerlikar, APP for State.

CORAM : T.V. NALAWADE, J.
DATED : 8th January, 2015.

ORDER :

1. Criminal Application No. 7008/2014 is filed by Talathi, Surajsing Ghusinge. Criminal Application No. 6340/2014 is filed by Circle Officer, Anand Kakade. Criminal Application No. 6423/2014 is filed by four applicants, who include Village Sarpanch Vishnu Bhoja Chavan and stamp vendor Vijay Bhoja Chavan and other two applicants like Prakash s/o. Krishana Rathod and Zipa Megha Pawar, who are said to be beneficiaries. Criminal Application No. 6464/2014 is filed by two ladies like Devakabai Chavan and Nilabai Chavan. Here only it needs to be observed that learned APP conceded that predecessor of Devakabai namely Pratap Bhoja was allotted the land in the initial allotment made by the Government in 1972 (Serial No. 30 of allotment list). Though there is some record showing partition made by her brother like Baban Pratap Rathod in her favour, the land was with his family and due to those documents only, Devakabai is getting the land which was allotted in her favour and so there is no serious opposition to the application filed by Devkabei. However, in respect of other applicant Nilabai of Criminal Application No. 6464/2014, there is one entry in the name of 7/12 extract showing that there is some portion allotted to Nilabai in land Gat No. 111 and when search was taken with regard to allotment, no such allotment was made in her favour.

2. The crime is registered on the basis of directions given by the learned Judicial Magistrate, First Class, Aundha Nagnath in a private complaint filed by one Dadarao Pundge. The submissions made and the allegations show that in the year 1972, some portion of land Gat No. 111 from village Rupur, Tahsil Aundha Nagnath was allotted to 46 landless persons. Allotment letters were issued, mutations were made and their names were recorded in the revenue record accordingly. The submissions made show that some portion of land Gat No. 57 was also allotted. The submissions made show that the remaining portion was reserved as a forest land and the remaining portion was not available for allotment in future. Allegations are made that accused No. 1 Surajsing Ghusinge, Talathi of Rupur village and Circle Officer Shri. Kakade created false record by joining hands with Village Sarpanch, stamp vendor and some other persons, 41 in number and they showed that some portion of land Gat No. 111 was allotted to these 41 families also when there was no such allotment. They used a peculiar modus operandi. Some record of partition documents was created, that record was produced before Talathi, farce of inquiry was made for effecting mutation and then mutations were sanctioned. In all 22 mutations were sanctioned on 16.8.2014 and that way 2 Hectore

land was given to each of the so called beneficiaries from land Gat No. 111 and revenue record was changed accordingly. Thus, to grab the Government land, which was actually in possession of forest department, the aforesaid false record was created and that must have been done for money by the two revenue officers. The aforesaid beneficiaries got their names entered in the different portions of land Gat No. 111. Similar entries were made in respect of some portion of land Gat No. 57.

3. In these proceedings, the learned counsel for Circle Inspector Shri. Kakade submitted that he was virtually deceived by Talathi Shri. Ghusinge. He submitted that before him some record of partition in respect of land Gat No. 101 was produced and sanction was obtained on the mutations and the number of the land was subsequently changed by Talathi to make it Gat No. 111 and so he was not involved in the fraud. This submission is not at all acceptable. The 7/12 extract is shown to this Court and it shows that none of the beneficiary had any share in land Gat No. 101 and there was no occasion for them to show the partition of land Gat No. 101. Further, considering the number of beneficiaries and the area of this land, this submission is also not acceptable. Prima facie, it can be said that the Circle Officer had joined hands with Talathi and he is also benefited due to this

fraud.

4. The learned counsel for Talathi submitted that his signatures were obtained by Circle Inspector Shri. Kakade by deceiving him and by saying that the signatures were required for filing proceeding for anticipatory bail. It is his contention that his signatures were obtained on 2-3 blank papers and one stamp paper and that record is used to show that only Talathi was involved in the fraud. Thus, the Talathi is not disputing that his signatures are appearing on the document which is produced in the proceeding and which is to the effect that false record was created.

5. Admittedly, Government has not allotted the portions shown in the mutations and the land is not allotted to aforesaid beneficiaries by the Government either in the year 1972 or subsequent to the year 1972. There was no such possibility also as the remaining portion is given to forest and it is reserved land for forest. There is record to show that Forest Officer had approached the revenue officer with a grievance and to cancel the entries made in the name of aforesaid beneficiaries.

6. There is record to show that partition documents

were created, the Village Sarpanch and one stamp vendor signed on all these documents as witnesses and it can be said that it was the conspiracy of these persons to grab the Government land. The learned counsel for Circle Inspector, during dictation of this order, on instruction submitted that the Circle Inspector wants to withdraw the proceeding and so his Criminal Application No. 6340/2014 is disposed of as withdrawn.

7. The record produced is sufficient to show that the Village Sarpanch, stamp vendor were benefited to a large extent as to more than 2 to 4 members of their families, land was shown to be allotted and they are benefited. There is similar record against other applicants, from Criminal Application No. 6423/2014.

8. It cannot be said that the beneficiaries were not aware of the record though such submission was made by their learned counsels. The record in their favour was created and on the basis of that record the mutations were made and revenue record was changed. At this stage, the learned counsel for Talathi in Criminal Application No.7008/2014, on instruction, submitted that he wants to withdraw the application. So, his application is disposed of as withdrawn. The learned counsel for

remaining applicants, who are so called beneficiaries submitted that if this Court is not inclined to grant relief, they want to withdraw their applications. So applications of all the applicants, except the application of Devakabai Chavan, stand disposed of as withdrawn.

9. So, only the application of Devakabai w/o. Shesharao Chavan is allowed. Interim relief granted in favour of Devakabai is hereby confirmed. These observations are for the purpose of present proceedings only.

[T.V. NALAWADE, J.]

ssc/