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

Writ Petition No.2442 of 2015
(Soma Pandurang Ingle and others v. Devidas Marotrao Siram and others)

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

Shri S.R. Deshpande, Advocate for Petitioners.
Shri K.L. Dharmadhikari, Assistant Government Pleader for Respondent No.2.

Coram : R.K. Deshpande, J.
Date : 25th August, 2015

The Tahsildar, Karanja-Ghadge, passed an order on 25-8-2014 in Revenue Case No.A-19/Misc./01/2008-2009 directing restoration of land to a tribal from the present petitioners, who are non-tribals. Appeal was preferred before the Maharashtra Revenue Tribunal, Nagpur, which has been dismissed on 15-1-2015, holding that the appeal is not maintainable before the Maharashtra Revenue Tribunal. Hence, the petitioners have challenged the orders of the Tahsildar and the Maharashtra Revenue Tribunal.

It is not in dispute that the respondent No.1 has established that he belongs to Scheduled Tribe category and the caste validity certificate was also produced before the Tahsildar. It is not the claim of the present petitioners that they belong to Scheduled Tribe category. They are undisputedly non-tribals. The property was transfered in their names by the registered sale-deeds dated 1-5-1972 and 14-1-1982. The Tahsildar has set aside both these sale-deeds on the ground that the requisite permission, as required under Section 36-A of the Maharashtra Land Revenue Code, 1966, has not been obtained. It has been observed that in spite of granting ample opportunities, the petitioners have failed to produce any order of the Collector or previous approval of the Government for transfer of the land. Though the question of *res judicata* was raised, the Tahsildar has recorded the specific finding that in spite of granting opportunity to the parties to produce the documents on record to establish such a plea. The Tahsildar has made enquiries from the office of Sub-Divisional Officer to find out whether there were earlier proceedings initiated by the son of the respondent No.1. The categorical finding is that there was no such proceeding instituted and no order was passed. The plea of *res judicata* has been negatived.

Shri Deshpande, the learned counsel for the petitioners, has only urged that the remedy of appeal is available under Section 247 of the Maharashtra Land Revenue Code and the petitioners should, therefore, be permitted to file an appeal in view of the fact that the Maharashtra Revenue Tribunal has held that the appeal before it is not maintainable.

I have heard the learned counsel for the petitioners on the merits of the matter in respect of the challenge to the order of the Tahsildar, which is specifically raised in the petition. Shri Deshpande, the learned counsel, could not point out even a *prima facie* arguable case and if the findings on facts are not challenged, no interference is called for to prolong the litigation.

The petition is dismissed.

Writ Petition No.820 of 2012 be detached from Writ Petition No.2442 of 2015.

Judge.

Lanjewar