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

WRIT PETITION NO. 6500 OF 2016

Ajitsingh s/o Narendrasingh Chhatwal

... Petitioner

Versus

Sardar Sukhbirsingh Diwansingh
Chandok and others

... Respondents

.....

Mr. B. K. Patil, Advocate for petitioner

Mr. P. D. Suryawanshi, Advocate for respondent No.1

Mr. A. P. Basarkar, AGP for respondents No. 4 to 6

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CORAM : SUNIL P. DESHMUKH, J.

DATE : 12th JULY, 2016

ORDER :

1. Heard learned counsel for the appearing parties.
2. Mr. B. K. Patil, learned advocate for the petitioner very concernedly contends that the piece of land purchased by the petitioner under a registered sale deed dated 1st April, 2006 from respondent No.2, is at stake in the proceedings. After lapse of about ten years from nowhere, proceedings have been initiated in respect of said piece of land by respondent No.1.

3. Learned advocate goes on to submit that factually, the property was purchased by the petitioner in the year 2006, as referred to above, under a registered sale deed from respondent No.2, who had purchased said property from respondent No.1 in 2004. Pursuant to aforesaid transactions, mutations have also been effected and the property uninterruptedly stood in the name of the petitioner. He submits that the petitioner has no concern with the occupations / vocations of respondents No.2 and 3. He has his own independent business and is occupied in the same. He has no concern with the business of respondent No.3, who is his father. The whole action being brought by respondent No.1 against respondents No.2 and 3 is with the purpose to defraud the petitioner from enjoyment of the property purchased by him for valuable consideration, without notice.

4. Learned advocate further submits that various criminal prosecutions had been lodged against respondents No.2 and 3 by respondent No.1, which have not been able to produce desired effect for respondent No.1. He has purportedly lodged the proceedings under Maharashtra Money Lenders Act, 1946.

5. Learned advocate submits that taking disadvantage of the Maharashtra Money Lending (Regulations) Act, 2014, respondent, No.1, purportedly, initiated proceedings in 2015 before respondent No.4 – District Deputy Registrar of Money Lenders, Co-operative Societies, Aurangabad alleging that the sale deed was executed in a money lending transaction. Despite having no authority, power or jurisdiction, respondent No.4 went on to deal with the proceedings and has purportedly cancelled the sale deed executed by respondent No.2 in favour of the petitioner.

6. Against the order passed by respondent No.4, on 30th March, 2016, the petitioner has preferred an appeal bearing No.9 of 2016 before respondent No.5 – Divisional Sub Registrar, Co-operative Societies, Aurangabad. Along with the appeal, he had also applied for stay to the operation of the order passed by respondent No.4. While hearing on stay application had been concluded on 17th May, 2016, before any order came to be passed on the same, hastily, the revenue authorities have indulged into commission of illegal, hasty and high handed acts of mutating name of respondent No.1, without even waiting for any orders of Tahsildar, Sub Divisional Officer or from the Collector, purporting to take

mutation on the basis of order dated 30th March, 2016. The petitioner, by way of abundant precaution, had submitted an application to the Sub Registrar, Paithan, under the Maharashtra Stamps Act, however, the Sub Registrar has neither accepted the application nor has given any inward number to the same.

7. Respondent No.5 has finally passed order on stay application on 16th June, 2016, rejecting the request made by the petitioner.

8. Learned counsel Mr. Patil submits that immovable property of petitioner is involved in the appeal and that the prosecution and continuation of the proceeding before the District Deputy Registrar had been outside his jurisdiction, power and authority and is absolutely misconceived. He submits that taking advantage of the order passed by the District Deputy Registrar, revenue entries in favour of petitioner have been sought to be changed under wrongful declaration about cancellation of sale-deed in favour of the petitioner. In the circumstances, the immovable property is likely to be dealt with by respondent No.1 in order to deprive the rights, interest and estate of the petitioner in the same.

9. Learned counsel Mr. Suryawanshi, appearing for respondent No.1 submits that it is not that District Registrar (Money Lending) has decided the case without any reference to the record. He submits that lot of record has been collected. Proceedings bring forth that the nature of transaction has been that of money lending transaction. The authority has passed an elaborate order taking into account various aspects in the matter. He, therefore submits that order on interim relief application in the appeal pending before said authority is proper and correct and no indulgence be given to the petitioner.

10. Perusal of the impugned order shows that it tends to be a non speaking and unreasoned order without realizing that the order impugned before the authority is challenged in an appeal. Under the circumstances, the matter ought to have been considered independently, particularly having regard to that immovable property is at stake. In the circumstances, submissions on behalf of the petitioner appear to carry lot of weight.

11. Having regard to aforesaid considerations, the impugned order stands modified to the effect that the immovable

property concerned would not be dealt with by any of the parties and *status quo* in respect of the same and its state of affairs be maintained during the pendency of the appeal before respondent No.5 and the situation should not be allowed to be deteriorated any further. With modification as aforesaid, substituting the impugned order, interim relief application stands decided accordingly.

12. As such, the appeal pending before the Divisional Joint Registrar be proceeded with expeditiously and be decided preferably within a period of six months from the date of receipt of writ of this order.

13. Till the decision in the appeal, order referred to above in paragraph No.11 to remain in operation.

14. Writ petition, with aforesaid, stands disposed of.

(SUNIL P. DESHMUKH, J.)

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