

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10939 OF 2014

Sukhdeo S/o Raghunath Chaudhari
and others

.. Petitioners

Versus

The State of Maharashtra and others

.. Respondents

Shri Rahul A. Tambe, Advocate for Petitioners.

Shri P. S. Patil, A. G. P. for Respondent Nos. 1 to 5.

CORAM : S. V. GANGAPURWALA, J.

DATE : 21ST MARCH, 2016.

PER COURT :-

1. Mr. Tambe, the learned counsel for the petitioners submits that, the writ lands were owned by the predecessors / ancestors of the present petitioners. They had executed lease deed in favour of Godawari Sugar Mills in the year, 1951. Subsequently in the year, 1958 the ancestor of the petitioner namely Kisan sold the land leased to Godawari Sugar Mills in favour of Godawari Sugar Mills. The learned counsel submits that, the sale deed is held to be illegal by the Authority. The learned counsel submits that, subsequently the lands which were leased to the sugar mills were taken in possession by the Government and subsequently allotted to Maharashtra State Farming Corporation. The learned counsel submits that, sale deed being declared illegal can be affirmed by the mutation entry bearing No. 1712. According to the learned counsel the petitioners had applied for the copy of the said order however was never served nor given the copy of the said order. The learned counsel submits that, the Government took the decision that the lands which were given to the Maharashtra State Farming Corporation would be reverted to the original owners. Vide the impugned order the right of the plaintiff

is negated only on the ground that the sale deed is executed in the year, 1958 and as such the right is lost. According to the learned counsel no reasons are given nor the order pursuant to the sale deed being illegal is provided.

2. Mr. Patil, the learned A. G. P. states that, the petitioners cannot claim any right after having executed lease deed in the year, 1951. The ancestor of the petitioner executed registered sale deed in the year, 1958 and as such is not entitled for any right. The order is rightly passed. Section 84 (C) of the Maharashtra Tenancy and Agricultural Lands Act takes care of such an eventuality and the property vests with the Government.

3. I have considered the submissions.

4. The factual matrix that the ancestor of the petitioner has executed the registered lease deed in favour of Godawari Sugar Mills is not disputed. It is also a fact that the ancestor of the petitioner executed sale deed in favour of said lessee in the year, 1958 without permission of the Competent Authority.

5. The fact that the sale deed being declared illegal is testified by the mutation entry. However, none of the parties have placed on record the order declaring the sale deed to be illegal. If, the sale deed is declared to be illegal then the provision of Section 84 (C) of the Maharashtra Tenancy and Agricultural Lands Act would be applicable. The effect of Section 84 (C) will have to be considered according to the recital in the sale deed it is stated that writ land was a Government land. According to the petitioners same is written by mistake. The said aspect also has to be considered. The impugned order nowhere depicts the consideration of the same.

6. In light of the above, I pass the following order -

ORDER

- I] The impugned order is quashed and set aside.
- II] The Authority shall reconsider the application of the petitioners. While considering the said application the Authority shall consider the effect of the registered sale deed executed by the ancestor of the petitioner in respect of the writ land in the year, 1958 in favour of Godawari Sugar Mills. If the transaction is held to be illegal it will consider provision of Section 84 (C) of the Maharashtra Tenancy and Agricultural Lands Act and after considering these aspects and the other relevant aspects shall pass the order.
- III] The said application of the petitioners shall be decided expeditiously and preferably within three (3) months from today.
- IV] Till then the interim order passed by this Court shall continue.
7. The writ petition is accordingly disposed of. No costs.

[S. V. GANGAPURWALA, J.]