

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9381 OF 2013

Anjali Balasaheb Bongane

...Petitioner

v/s.

Indian Oil Corporation Ltd. & ors.

...Respondents

...

Mr.Mandar Goswami for the Petitioner.

Mr.Sunil Gangan i/b RMG Law Associates for the Respondents Nos. 1 to 3.

...

CORAM : A.S.OKA &

A.A. SAYED, JJ.

DATED : 4 OCTOBER 2016

P.C.:

Heard the learned Counsel appearing for the Petitioner and the learned Counsel appearing for the Respondents.

2. An advertisement was published by the first Respondent inviting Applications for appointment of dealers for running a retail outlet for various regions. The Petitioner made an application for the location at Hingangaon, Taluka Indapur, District Pune. The Petitioner was held as ineligible as the consent of co-owners of the land offered by the Petitioner was not produced.

3. Learned Counsel appearing for the Petitioner invited our attention to clause (a) of paragraph 14 of the terms and conditions in Brochure published by the first Respondent for selection of dealers. He submitted

that the Petitioner under a registered sale-deed has purchased a specific identified portion of the land out of Gat No.15 at village Hingangaon, Taluka Indapur, District Pune. His submission is that though it was not necessary, consent of two persons whose names appear on the 7/12 extract was procured and produced by the Petitioner.

4. This Petition was heard on 27 September 2016. Paragraphs (1) and (2) of the order passed on 27 September 2016 read thus:

“1. Heard learned Counsel appearing for the Petitioner. The Petitioner claims to be the purchaser of the portion of land bearing Gat No. 15, at Village Hingangaon, Takula Indapur, District Pune. Perusal of 7/12 extract shows that Gat No. 15 has not been subdivided and the Petitioner is shown as a co-owner along with several other persons. Moreover, there are encumbrances shown in the other rights column. Even the Petition proceeds on the footing that the portion of land allegedly purchased by the Petitioner under the Sale Deed dated 5th February 2008 has not been subdivided. That is the reason why the Petitioner has been held as ineligible. Admittedly, consent Affidavits of the persons shown as co-owners are not produced. Moreover, in view of encumbrances shown, it is not possible to accept that the land claimed by the Petitioner is of exclusive ownership of the Petitioner.

2. Faced with these difficulties, the learned Counsel appearing for the Petitioner seeks to take instructions.”

5. The submission of the learned Counsel appearing for the Petitioner as narrated above is that a specific portion out of Gat No.15 was purchased by the Petitioner and therefore, there cannot be any dispute about the title of the Petitioner. He has tendered on record the documents showing that in case of similarly situated persons, eligibility has been accepted by the first Respondent.

6. Clauses (a) and (b) of paragraph 14 of the Broacher read thus:

“(a) Owned Land

Since availability of suitable land for setting up of retail outlets at the advertised location is the essence of the project. The Land offered by the applicant either owned or having a firm offer, will be evaluated for marks under the Head “Land and Infrastructure, subject to technical and commercial suitability of land as decided by IOCL. The land and details offered along with the application alone will be considered for this purpose and the applicant will not be given the opportunity to offer any other land subsequently. For this purpose, the land owned by the ‘family unit’ will also be considered as belonging to the applicant subject to producing the consent on notarized affidavit signed by all concerned member/s of the ‘family unit’ will be as per para 6 above.

(b) “Firm Offer” of Land

Applicants also have the option to offer land other than that belonging to self (or by “Family” member or in Joint ownership with such

“Family” members i.e. co-owner/s). In such case the applicant should submit registered agreement with the landowner/s.”

(underline supplied)

7. We have noted that 7/12 extract of Gat No.15 shows that the said land has not been sub-divided and names of large number of co-owners or co-sharers appear on 7/12 extract, apart from encumbrances shown in the other rights column. The petitioner is claiming that he has purchased a portion admeasuring 1 H. 16 R. out of total area of Gat No.15 of 4 H. 88 R.

8. Today, the learned Counsel appearing for the Petitioner, on instructions, accepts that the portion of the land purchased by the Petitioner has not been sub-divided by the competent authority.

9. In absence of subdivision, the persons who are shown as co-sharers or co-owners will be entitled to claim interest in the land claimed by the Petitioner. Moreover, the perusal of the Sale Deed under which the petitioner purchased the land will show that the boundaries of an area of 1 H. 16 R. are not mentioned therein.

10. The whole object of clauses (a) and (b) of paragraph 14 seems to be that the Applicant who wants himself to be appointed as a dealer should offer a land which is of his ownership with clear title so that later on there is

no litigation in relation to the land on which retail outlet is established. Therefore, clause (b) provides for procuring the consent of the co-owners.

11. At this stage, learned Counsel appearing for the Petitioner submits that even in the case of lands offered by the selected candidates, there is no subdivision.

12. In this Petition under Article 226 of the Constitution of India, we are concerned with the question whether the Petitioner is eligible. We find no error in the view taken by the first Respondent that the Petitioner was ineligible. Hence, there is no merit in the Petition and the same is rejected.

(A.A. SAYED, J.)

(A.S.OKA, J.)