

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

WRIT PETITION NO. 822 OF 2015

Smt. Chhotibai wd/o Jagan Madot

-vs-

State of Maharashtra, thr.its Secretary, Revenue & Forest Deptt. and others

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders.

 Mr. P. V. Thakre, counsel for the petitioner.
 Mr. A.R.Chutake, AGP for the respondent Nos.1 and 2.
 None for the respondent No.3.

CORAM : SMT. VASANTI A NAIK &
KUM. INDIRA JAIN, JJ.

DATE : 27.10.2016.

By this petition, the petitioner seeks a direction against the respondent-State of Maharashtra to regularize the encroachment of the petitioner on land Survey No.64. The petitioner has also sought a direction against the respondents to grant compensation to the petitioner for the acquisition of the land.

According to the petitioner, 0.8 are land is the government land and the petitioner's husband had encroached upon the same in the year 1975-76. According to the petitioner, the husband of the petitioner had made an application for regularization of the encroachment. The husband of the petitioner expired in the year 2003. According to the petitioner, thereafter the petitioner made an application to the State Government and the respondent No.2 for regularization of the encroachment. It is stated that in the year 2006, mining lease in respect of the land that is encroached upon by the petitioner and the adjacent land was granted in favour of Karnatka Emta Coalmines Limited-respondent No.3 to the petition. It is stated that the mining lease in respect of 2000 hectares of land was granted in favour of the respondent No.3 in violation of the right of the petitioner. According to the petitioner, since the petitioner is in occupation of the

land from past several years, the encroachment made by the petitioner needs to be regularized.

On the other hand, it is submitted on behalf of the respondent Nos.1 and 2 by referring to the affidavit-in-reply filed on behalf of the respondent No.2 that after the death of the petitioner's husband, the petitioner's son had applied for regularization vide application dated 10/12/2010, but the prayer made in the said application was rejected, as the land was already allotted to the respondent No.3 by a registered lease deed dated 25/09/2006. It is stated that the respondent No.3 is in possession of the land and the petitioner is not in possession of the same.

In the circumstances of the case, the relief sought by the petitioner cannot be granted. Merely, because the petitioner's husband had earlier encroached upon the land, a direction cannot be issued to the State Government to regularize the encroachment under the provisions of the Maharashtra Land Revenue Code. The concerned land bears minerals and a mining lease is executed in favour of Karnataka Emta Coalmines Limited in respect of 2000 hectares of land and the small land that is sought to be regularized is included in the said lease deed. A registered lease deed in respect of the concerned land along with the huge tract of land was executed by the State Government in favour of the respondent No.3-company in the year 2006 and the petitioner has filed the instant petition on 05/02/2015. IN the circumstances of the case, the relief sought by the petitioner cannot be granted.

Hence, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE