

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

WRIT PETITION NO.1496 OF 2016

[Antu Kondba Ukey through his legal heirs and others .vs. The State of Maharashtra and others]

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

Court's or Judge's orders

Shri Bargat, counsel for the petitioners,
Shri Madiwale, AGP for the respondents.

.....

CORAM : SMT. VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATED : JULY 20, 2016.

By this writ petition, the petitioners challenge the notifications under Section 10 (3) and Section 10 (5) of the Urban Land (Ceiling and Regulation) Act, 1976 dated 31.10.2007 and 5.11.2007 respectively on the ground that the proceedings have abated, in view of the provisions of the Repeal Act, 1999.

Shri Madiwale, the learned Assistant Government Pleader appearing on behalf of the respondents, states that one of the owners of the property, namely Shri Ankush s/o Antu Ukey, had filed a writ petition bearing Writ Petition No.4050/2015 challenging the same notifications in respect of the very same land. It is stated that the said writ petition was allowed and it is held that the proceedings under the Urban Land (Ceiling and Regulation) Act, in respect of the property in question, have lapsed. It is stated that the petitioners, who claim to be the co-owners of the property have again filed this petition seeking the same relief. It is stated that once the proceedings under the Urban Land (Ceiling and Regulation) Act, in respect of the land, have abated, the same relief cannot be granted, merely because the petitioners who jointly claim to be owners of the property, have filed this petition.

We uphold the objection raised on behalf of the respondents. We have already declared, by our judgment dated 29.1.2016, that the proceedings initiated under the Urban Land (Ceiling and Regulation) Act, in respect of the land, that is the subject matter of this petition, have abated. If such a declaration is already granted on a petition filed by the person, who claimed to be the owner of the property, a similar declaration cannot be granted again. It appears that there is a dispute between the petitioner in Writ Petition No.4050/2015 and the petitioners in this writ petition in regard to the ownership of the property. The petitioners also claim a share in the property. If that be so, the petitioners have other remedy, however, they are not entitled to approach this court again for seeking a declaration that is already granted in Writ Petition No.4050/2015.

In view of the aforesaid, we dispose of the writ petition, with no order as to costs.

JUDGE

JUDGE

Gulande, PA

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

Uploaded by : A.S. Gulande, P.A.

Uploaded on : 22.7.2016