

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

**CRIMINAL APPLICATION (APPP) NO.981 OF 2016**

**IN**

**CRIMINAL APPLICATION (ABA) NO. 256 OF 2016**

*(Jahan Aara w/o Mohammad Zakir & another Vs. The State of Maharashtra)*

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

Court's or Judge's orders

Shri A. H. Jamal, Advocate for the applicant.  
Shri S. J. Kadu, A.P.P. for the State.

**CORAM : S. B. SHUKRE, J.**  
**DATED : AUGUST 25, 2016**

Reply of the prosecution is taken on record.

Heard learned Counsel for the applicant and  
learned A.P.P. for the State.

Although, this application is styled as speaking to  
the minutes, the prayer is not in conformity with the title of  
the application. The contentions raised in the application  
show that review of the order has been sought.

The grounds on which this application is resting are  
that this Court did not consider the material fact that till the  
year 2012, when the sale deed in question was executed in  
favour of the applicants, the alleged title holders Hamida Bano  
and Mehnaz Parveen had not got mutated their names in the  
revenue record and also in the municipal record till 2014.

Learned Counsel for the applicants submits that if

Hamida Bano or Mehnaz Parveen had not mutated their names in the revenue record or municipal record, no amount of enquiry would have sufficed its purpose. He submits, in fact, the enquiry was made and since Mohammad Farooq's name was seen appearing in the revenue record, these applicants went ahead in getting the said sale deed executed in their favour.

This contention cannot be accepted for the reason that what has been stated in the order dated 08/7/2016 is that no material was placed on record on the basis of which the statement about making of enquiry regarding the title being clear was placed on record. The question was of making of enquiry by these applicants and, therefore, these applicants ought to have placed on record some material from which it could have been seen that these applicants have indeed made enquiry and satisfied themselves that the title to the plot in question was clear and marketable. That material was not placed. Then, the statements of witnesses, in particular of the witnesses, Hamida Bano and Mehnaz Parveen show that the plot was originally sold to Hamida in the year 2000 and later on it was partitioned and one of its share was given to Mehnaz Parveen in the year 2007 and that both the sisters had been residing in this property after constructing their houses therein.

The sale deed in question is of the year 2012 and description of the property mentioned therein discloses that the piece of land that was being sold was open. It is not the contention of the applicants that before purchasing this plot, they had visited the site, inspected the plot and satisfied that it was an open land with no houses standing thereon. It appears that even this basic enquiry has not been made by the applicants. All these facts, therefore, create a reasonable doubt about the applicants also being party to the fraud committed in the instant case and, therefore, their custodial interrogation would be required. The application cannot be allowed. The application stands rejected.

Learned Counsel for the applicants, at this stage, submits that two weeks time should be given for challenging the order before the Hon'ble Apex Court.

Learned A.P.P. for the State has opposed the prayer.

Similar prayer was made by the applicants when the application was rejected on 08/7/2016 and the prayer was granted by directing that the order be kept in abeyance for two weeks. Sufficient time has already been given for doing the needful. Therefore, now, the prayer cannot be granted.

The prayer is rejected.

**JUDGE**

**CERTIFICATE**

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

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