

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CIVIL APPLICATION NO. 1145 OF 2017
IN
CIVIL APPLICATION ST. NO. 2259 OF 2017
IN
WRIT PETITION NO. 1839 OF 2010

M/s. Tata Power Co. Ltd.

....Applicant.

Versus

Dhondiba Sukhdeo Mote and Ors.

....Respondents.

...

Mr. Shrikrishna Ganbavale h/f. A.R. Joshi, Advocate for applicant.

Mr. Mukul Kulkarni, Advocate for petitioner in writ petition.

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CORAM : T.V. NALAWADE, J.

DATED : 23rd January, 2017.

ORDER :

1. Both the sides are heard. The application is filed by M/s. Tata Power Company Limited. In the past, writ petition was filed against M/s. Surgeon Realities Private Limited, respondent No. 6 of the writ petition. Tata Power Company Limited is purchaser from this respondent. The application is filed for grant of leave to file review application in Writ Petition No. 1839/2010 to which Tata Power Company Limited was not party respondent.

2. Firstly, it needs to be ascertained as to whether the leave can be granted to Tata Power Company Limited. This Court

has already observed that the rights of the purchaser from respondent No. 6 cannot be more and better than the rights of respondent No. 6. Hearing was given to respondent No. 6. Initially Advocate Shri. Sanket Kulkarni represented respondent No. 6. Then Advocate Shri. Shrikrushna Ganbavale filed review application for M/s. Surgeon Realities Private Limited. Now the same counsel has filed application for Tata Power Company Limited. These circumstances are sufficient to show as to how there was substance in the observations made by this Court that big companies are acting mischievously, they are creating multiplicity of proceeding to create only complications. This single circumstance is sufficient to refuse permission for filing review application.

3. This Court has already discussed the merits of the matter while deciding the petition. The decree was given in favour of present respondent Shri. Dhondiba Mote long back, in the year 1968 and the proposal for making partition of the land and giving particular portion was prepared which contained creation of sub-divisions of the land. This proposal was informed to the parties concerned and northern portion offered was accepted by Shri. Mote.

4. Even when there was a decree of 1968 and revenue officers had made proposal of partition and even sub-divisions of the revenue number were proposed, one company purchased the property from co-sharers. Tata Company then erected wind mill. Today, it was submitted that value of wind mill was around Rs. 18 Crore. This circumstance shows the high handedness and belief of big companies that they can do anything. The record and submissions show that they want to see that the decree holder Shri. Mote accepts southern portion when he had agreed to accept northern portion as on northern portion wind mills are erected. Firstly, it needs to be observed that the the company being stranger to family of decree holder, it was not even entitled to joint possession. Due to aforesaid belief, they erected structures even when there was decree of partition in favour of Shri. Mote. Due to all these activities and circumstances, some serious observations are already made by this Court, not only against the companies, but also against the revenue officers. Present application is one more attempt to create more complications and to create one more order so that more complications are crated and there is multiplicity of litigation. Due to these circumstances, this Court holds that no leave can be granted to the present applicant.

5. The learned counsel for applicant placed reliance on the cases reported as **1970 (3) Supreme Court Cases 573 [Smt. Jatan Kumar Golcha Vs. M/s. Golcha Properties (P) Ltd., (2009) 1 Bom CR 39 [Dinkar Indrabhan Kadaskar & Ors. Vs. Grampanchayat Bhagwatipur & Ors.], 2014 SCC OnLine AP 269 [P. Chenga Reddy Vs. Kuppala Bala Subramanya and Ors.] and (2002) 3 Bom CR 382 [Pradnya d/o. Nagnath Ilayatnagarkar and Ors. Vs. State of Maharashtra and Ors.]**. The facts and circumstances of each and every case are always different.

6. In the result, the application stands rejected. Again in the present proceeding, the learned counsel for applicant requested for stay when it was refused for two times. It is again refused.

[T.V. NALAWADE, J.]

SSC/