

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 3377 OF 2002
WITH CA/1002/2003 IN WP/3377/2002
WITH CA/5035/2003 IN WP/3377/2002
WITH CA/6850/2003 IN WP/3377/2002
WITH CA/7955/2003 IN WP/3377/2002
WITH CA/3381/2004 IN WP/3377/2002
WITH CA/3382/2004 IN WP/3377/2002
WITH CA/3383/2004 IN WP/3377/2002
WITH CA/7779/2005 IN WP/3377/2002
WITH CA/1304/2008 IN WP/3377/2002
WITH CAST/3196/2008 IN WP/3377/2002
WITH CAST/15010/2008 IN WP/3377/2002
WITH CA/13061/2008 IN WP/3377/2002
WITH CA/6849/2003 IN WP/3377/2002
WITH CA/12175/2017 IN WP/3377/2002
WITH CA/12230/2017 IN WP/3377/2002
WITH CA/13643/2017 IN WP/3377/2002
WITH WP/4224/2002

SYED YOUSUF ALI SYED THILAWAT ALI
VERSUS
THE STATE OF MAHARASHTRA & ORS.

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Advocates for Petitioner : Shri Sapkal V.D. a/w Shri Bhadekar D.R.
AGP for Respondents 1 & 4 : Shri Gujarathi Y.G.
Advocate for Respondent 3 : Smt. Deshpande Manjusha
Advocate for Respondent 2 : Shri Nagode D.G.
Advocate for Respondent 5 : Shri Patil P.R.
Advocate for Respondents 6 & 7 : Shri Deshmukh R.S.
Advocate for Respondent 11,12 & 14 : Shri Deshpande S.R.
Advocate for Respondent 13 : Shri Rathod A.R.
Advocate for Respondent 16 : Smt. Dhumal S.S.
Advocates for Respondent 17 : S/Shri Iral Patil D.R.
and Waghmare Ravi
Advocates for applicants : S/Shri Deshpande M.K., Bhumkar R.P.
Pathare P.M., Shaikh S.K.

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CORAM : RAVINDRA V. GHUGE & SUNIL K. KOTWAL, JJ.
Dated: November 14, 2017

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PER COURT :-

1. We have considered the brief submissions of most of the learned Advocates appearing on behalf of the petitioner and the respondents.

2. The petitioner seeks to invoke our extra-ordinary jurisdiction under Article 226 of the Constitution of India for issuance of directions to the Municipal Commissioner not to grant or sanction any 'lay out' with regard to the Survey Numbers mentioned in prayer clause (C) below paragraph No.14 in the memo of the petition. Further directions are sought in prayer clause (E) that third party interest should not be created by any person in the said Survey Numbers falling within the areas which are commonly known in Aurangabad city at Baijipura, Maljipura, Daudpura, Bag-a-sheer-gunj.

3. After considering the voluminous record before us and the submissions of the learned Advocates, we find that there is a judicial pronouncement by this Court in Special Civil Application No.154 of 1960 and Special Civil Application No.1496 of 1959 by judgment dated 26.4.1960.

4. Several litigants are before us, each claiming to be the legal

heir of the title holder of the properties mentioned in prayer clauses (C) and (E).

5. Notwithstanding the fact that this petition has been admitted and is pending for the last 15 years, we find that the complexion of the litigation before us cannot be considered in our extra-ordinary jurisdiction.

6. Shri Sapkal, learned Advocate for the petitioner along with Shri Bhadekar, learned Advocate submit that the petitioner has moved a representation dated 22.4.2010 before the Collector. Shri Sapkal submits that by disposing of this petition he may be permitted to pursue the representation dated 22.4.2010.

7. Considering the above, this petition is disposed off. In so far as the request of Shri Sapkal is concerned, we leave it to his client to take a decision as regards whether he wishes to pursue with the pending representation. He is at liberty to approach the District Collector or if need be to the Municipal Commissioner, Aurangabad. We do not wish to express any opinion on the said issue.

8. Needless to state, in the event the petitioner approaches the Collector with his representation dated 22.4.2010, the Collector

shall deal with the same as is expected in law and by following the due procedure with promptitude. We have not expressed any opinion about the rival claims of the parties.

9. Shri Sapkal and Shri Bhadekar make a request that the amount of Rs.3,15,000/- deposited in this Court on 28.7.2003, be refunded along with accrued interest.

10. We find that the receipt bearing No. 10225 issued on 28.7.2003 with C.No. 194/03/04, has been issued in the name of Syed Yusuf Ali, who was party in person in this petition. He is said to have passed away. As such, *ex-facie*, the record reveals that Syed Yusuf Ali had deposited the money.

11. We therefore, leave it open to the legal heir/s of Syed Yusuf Ali to file a Civil Application in this Court for seeking a withdrawal of the said amount. Until this Court passes appropriate orders permitting any person to withdraw the said amount with accrued interest, the Registry shall not allow any person to withdraw the said amount and shall invest the said amount, if not already invested, in any nationalized bank, initially for a period of one year and to be renewed thereafter until the orders passed by this Court.

12. Consequentially, the other Writ Petition No. 4224 of 2002, filed by deceased Syed Yusuf Ali does not survive and stands disposed off.

13. Rule in Writ Petition No. 3377 of 2002 stands discharged.

14. All pending Civil Applications are rendered infructuous and stand disposed off.

(SUNIL K. KOTWAL, J.)

(RAVINDRA V. GHUGE, J.)

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