

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11789 OF 2016
(Ranjeet Dattatray Narsinge and another Vs. The State of
Maharashtra and others)

Mr.S.B.Talekar with Mr.Ajinkya Kale, Advocate for the petitioners.
Mr.N.T.Bhagat, AGP for respondent Nos. 1 to 4/State.
Mr.S.A.Wakure, Advocate for respondent Nos. 6 and 7.

(CORAM : Ravindra V.Ghuge, J.)

DATE : 04/07/2017

PER COURT :

1. The petitioners are aggrieved by the impugned order dated 01/10/2016 passed by respondent No.2 by which Appeal No.15/2016 filed by respondent Nos. 6 and 7 has been partly allowed and respondent No.3 has been directed to reconsider the entire case and pass a reasoned order.

2. I have heard the learned Advocates for the petitioners, learned AGP on behalf of respondent Nos. 1 to 4 and the learned Advocate for respondent Nos. 6 and 7.

3. Respondent Nos. 6 and 7 had filed a complaint on 10/07/2014 before respondent No.3 alleging that the sale of land between respondent Nos. 5 vis-a-vis respondent Nos. 6 and 7 was prohibited

under the provisions of the Maharashtra Money Lending (Regulation) Act, 2014 (Hereinafter referred to as Act of 2014). Issue is as regards respondent Nos. 6 and 7 having sold the land to respondent No.5 and finally it was sold to the petitioners. By order dated 26/11/2015, respondent No.3 declined to exercise jurisdiction on the ground that the said sale of land had occurred more than 15 years ago and the provisions under the Act of 2014 could not be invoked.

4. Respondent Nos. 6 and 7 approached respondent No.2 by preferring the appeal and it was prima facie concluded that the sale of the land had taken place on 18/08/2000 by which Baban Narayan Wakure and one Mr.Kadam purchased the land. Subsequently, they sold it to respondent No.5 Balasaheb Sopan Mendhekar on 16/08/2001 and then it was sold by respondent No.5 to the petitioners. These aspects brought the sale of the said land within 15 years from the date of the complaint and hence, respondent No.2 arrived at a prima-facie opinion that respondent No.3 could deal with the said issue by following the due process of law.

5. It is informed by the learned Advocates for the respondents that respondent No.3, pursuant to the impugned order, has initiated the hearing process in the matter and the petitioners have filed their

written say and are participating in the said proceedings.

6. Mr.Talekar, learned Advocate for the petitioners has strenuously contended that both the petitioners are *bonafide* purchasers and no grievance or complaint can be considered against a *bonafide* purchaser under the Act of 2014. He strenuously submits that unnecessarily the *bonafide* purchasers are dragged into litigation. He draws my attention to each of the 11 grounds raised in the memo of the petition and submits that the protection available to him under Section 17 of the Act of 2014, cannot be taken away.

7. I find that respondent No.2 has merely expressed a prima facie opinion about the dispute falls within 15 years from the date of the complaint. He has neither concluded the said issue, nor has he held that the petitioners are not *bonafide* purchasers. Moreover, whether the petitioners can be said to be *bonafide* purchasers is a matter of an adjudicatory process and disputed and contentious issues as to whether they are *bonafide* purchasers or not, cannot be gone into in the writ and supervisory jurisdiction of this Court.

8. Considering the above, this petition is disposed of without causing any interference in the impugned order. Needless to state, all

the litigating sides are at liberty to canvass their contentions which respondent No.3 would consider on their own merits and without being influenced by the prima facie view expressed by respondent No.2 in the impugned order.

(Ravindra V.Ghuge, J.)