

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 11 OF 2011

Shri Dattatray Balkrishna Sumant. ... Petitioner.
V/s.
State of Maharashtra and others. ... Respondents.

Rahul Kadam for the petitioner.

PG.Sawant, AGP for the State.

S.A.Pawar for respondent No.6.

**CORAM : DR.MANJULA CHELLUR, C.J.
AND G.S.KULKARNI, J.**

DATE : 19th April 2017.

P.C. :

The petitioner is espousing a cause in public interest to seek the following reliefs:

“(A) That this Hon'ble Court be pleased to issue a writ of Mandamus under Article 226 of Constitution of India 1950 or any other appropriate writ, direction, order and thereby declare that the transaction between Respondent No.6 and Respondent No.9 of purchasing said land

without valid permission of the revenue department is illegal, void and bad in law.

- (B) That this Hon'ble Court be pleased to issue a writ of Mandamus under Article 226 of Constitution of India 1950 or any other appropriate writ, direction, order any thereby initiate the action and thereby to take the said land back for the reason mentioned herein above in the memo of the petition.
- (C) That in the above mentioned facts and circumstances that entire record and proceeding of the transaction relating to the said land may be called and thereby necessary inquiry may be carried out and upon finding illegality committed by the concerned persons necessary action may be taken against the respondent No.6 & 9 along with Revenue Authorities for not taking prompt action against the respondent No.6 & 9 knowing the illegality on the part of respondent No.6 & 9.....”

2. The main grievance of the petitioner is that respondent No.6, who is the beneficiary of an allotted land, in violation of the terms and conditions of the allotment has created third party interest in favour of respondent No.9 and that it is respondent No.9 who is taking benefit of the allotted land, and that the respondent-authorities should take appropriate action with regard to said conduct of respondent No.6 and take back the land from respondent No.6.

3. On behalf of State Government, a reply-affidavit has been filed of the Sub Divisional Officer, Madha Division, Kurduwadi. In paragraph-2 of the affidavit, it is stated that the deponent personally visited the land in question on 5th September 2014 along with Panchas and, at that time, respondent Nos.6 and 9 were not present. It was found that nobody was cultivating the land in question and was barren land. In paragraph-3, it is further stated that the statements of the neighbouring farmers were recorded who have stated that the land in question is in possession of Smt.Sharada Jaywant Pawar, respondent No.6 and due to her economic condition/ background she is not cultivating the said land since 4 to 5 years. Further in paragraph-4, it is stated that the land in question is in possession of respondent No.6- Smt.Sharada Jaywant Pawar.

4. There is no contrary material to doubt the correctness of the affidavit filed on behalf of the State Government. In any event all the reliefs sought by the petitioner appear to be only with regard to respondent No.6, that she has created third party interest in favour of respondent No.9. There is no registered sale-deed between respondent No.6 and respondent No.9 to substantiate this particular contention. In absence of any cogent material to support the contentions of the petitioner, we do not find any merit in the present public interest litigation. We are also surprised that the

petitioner is espousing the cause only against respondent No.6. It is also not in dispute that the petitioner is also an agriculturist in the neighbouring area. In the circumstances, we are also not satisfied with the locus of the petitioner to espouse the cause as raised in this public interest litigation, that too, only with regard to respondent No.6. In the circumstances, we doubt the motive of the petitioner to file and pursue this public interest litigation. The petitioner could have also adopted other appropriate remedy instead of filing this public interest litigation and by making the above prayers and that too with such insufficient and baseless material.

5. Accordingly, public interest litigation is dismissed with costs of Rs.10,000/- to be deposited by the petitioner with the Maharashtra State Legal Service Authority within four weeks from today.

6. The Registry is directed to serve a copy of this order on the petitioner and seek compliance of our direction with regard to payment of costs.

(G.S.KULKARNI, J.)

CHIEF JUSTICE