

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3399 OF 2017

Shri. Sushil Naval Sanghavi                      ...Petitioner.  
vs.  
District Collector, Pune and ors.              ...Respondents.

Mr.S.R.Borulkar i/by Manoj Patil for the Petitioner.  
Mr.S.P. Kalel, AGP. for the Respondents.

CORAM : V.M. KANADE AND  
A.S. GADKARI, JJ.  
DATE : 21<sup>th</sup> March, 2017

PC:

Heard the learned counsel for the petitioner.

The petitioner is aggrieved by the order passed by the  
Tahsildar attaching the property belonging to Devraj  
Vishwasrao Jadhav.

2)                      The brief facts relevant for deciding this  
petition are as under.

One Devraj Vishwasrao Jadhav and four others  
namely Shrimant Malojiraje Sahakari Grihataran Sanstha  
Ltd., Duryodhan Dattatraya Rananavare-Founder, Shri.  
Shantanu Duryodhan Rananavare, Chairman and Sou.  
Shardabai Duryodhan Rananavare, Director were the

respondents in the complaint filed by one Anil Narayan Kulkarni before the Satara District Consumer Forum. In the complaint, it was alleged that the respondents in the said complaint-application have taken various amounts of security deposit with a promise to repay the said amount. The said amount was paid out of the life saving of the complainant and after selling the agricultural lands. When the amount was needed by the complainant Mr. Kulkarni, the said amount was not paid by the respondents and therefore, he filed complaint before the District Consumer Forum. The Consumer Forum after examination of material on record passed award on 17.5.2014 directing the said respondents to pay the amount with interest and also directed that if the amount is not paid then amount will be recovered as per the provisions of the Consumer Protection Act, 1986.

3) After award was passed on 17.5.2014 an application was made before the Collector for attachment of the property owned by the said respondents being agriculture property Gat 84/4A Hissa area admeasuring

36.5 Ares. When this order was passed by the Collector for attachment of the property the petitioner has approached this Court for setting aside the said order and notice dated 28.11.2016 issued by the Tahsildar, Pune City.

It is submitted that the petitioner is the absolute owner of the property /land admeasuring 36.5 Ares from Gat No.84/4A and therefore, the Tahsildar and Collector should not have issued the order of attachment of the said property. According to the petitioner he has paid 25% of the share to the predecessor in title on 9.9.2011 and the remaining share was purchased on 30.12.2015. Thereafter, he had applied for recording his name in the record of rights. However, his application was rejected by the Circle Officer against which he has preferred an appeal under the provisions of Maharashtra Land Revenue Code. It is his case that in January 2017 he came to know that his property has been attached pursuant to the Award passed by the District Consumer Forum, Satara in execution proceeding No. 74/2015. It is contended that coercive action should not be taken on the basis of the recovery certificate issued

by the District Consumer Forum since the land was purchased by the petitioner and he was bona fide purchaser without value of notice. Shri. Borulkar, learned counsel appearing for the petitioner submitted that Tahsildar, Pune City may be directed to hear the petitioner and pass appropriate order. He has also relied on the sale deed executed on 15.5.2014. The contention of the petitioner that the property was owned by him and not by Devraj Vishwasrao Jadhav and therefore, the notice issued to the petitioner by the Tahsildar, Pune City is not proper, is incorrect. The Award was passed by the Consumer Forum not only against the Devraj Vishwasrao Jadhav but also against Shri. Shri. Shantanu Duryodhan Rananavare who are respondent Nos. 5 and 3 respectively before the Consumer Forum and have sold the property to the petitioner by sale deed dated 15.5.2014 registered on 30.12.2015.

In our view, this is an attempt made by the respondents in the Complaint before the Consumer Forum and to create record to show that this property no longer

was belonging to Devraj Jadhav and Shantanu D. Rananavare. Secondly, it cannot be forgotten that Shantanu Duryodhan Rananavare is also respondent No.2 in the Consumer Forum complaint-application. Thirdly, it has noticed that the alleged transfer of the said property was registered on 30.12.2015 though the agreement for sale was executed on 15.5.2014 two days before the Award was passed.

5) We are therefore, not inclined to interfere in the order passed by the Collector dated 2.2.2016 which is passed pursuant to the execution proceedings which were initiated by the Consumer Forum and the notice of attachment issued by the Tahsildar pursuant to the order of the Collector. Moreover, the petitioner may exhaust the alternative remedy if available to him.

6) Petition is therefore, dismissed.

(A.S.GADKARI, J.)

(V.M. KANADE, J.)