

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition NO. 7934 OF 2016

Shri Dhanraj Nathuram Aswani

...Petitioner

Versus

M/s Three Star Developers

And Ors.

...Respondents

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Mr.P.K. Dhakephalkar, Senior Advocate a/w. Ajay S. Patil, for the Petitioner.

Mr.S.R. Nargolkar a/w. L. Countinho i/b. Jaiwant S.Chandnani, for Respondent No.1.

Mr. Ketan Joshi, Advocate for respondent No.3.

Ms. K.R. Kulkarni, AGP for respondent No.4.

Mr. Hari Kataria, partner of respondent No.1 is present in Court.

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CORAM : R. G. KETKAR, J.

DATE : 06th OCTOBER, 2017

P.C.

1. Heard Mr.P.K. Dhakephalkar, learned Senior Counsel for the petitioner, Mr. S.R. Nargolkar, learned Counsel for respondent No.1, Mr. Ketan Joshi, learned Counsel for respondent No.3 and Ms. K.R. Kulkarni, learned A.G.P. for respondent No.4-State.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged the order dated 18.4.2016

passed by the Hon'ble Minister for Revenue, State of Maharashtra. By that order, the Hon'ble Minister partly allowed the appeal preferred by the first respondent under Section 247 of the Maharashtra Land Revenue Code, 1966 (for short, 'Code') and remitted the matter to Collector, Pune to decide the matter afresh.

3. Mr. Nargolkar submitted that in pursuance of the order of remand, the Collector has concluded the hearing on 25.7.2017 and has closed the matter for decision. In other words, the impugned order is worked out.

4. Mr.Dhakephalkar disputed this position. He submitted that on 28.2.2017 the petitioner had filed application for injunction restraining the respondents from creating third party interest. Said application may also be decided along with the main matter and till such time the Collector decides, respondent No.1 may be restrained from creating third party interest. Mr. Nargolkar submitted that the Collector may be directed to pass order within three weeks from production of the authenticated copy of the order. Mr.Nargolkar submitted that Hari Kataria the partner of respondent No.1 is present in the

Court. Upon taking instructions from him, he states that respondent No.1 has already created third party interest and will not create further third party interest till such time the Collector decides the proceedings. Mr.Dhakephalkar disputes that respondent No.1 has created third party interest by registered instrument/s. Be that as it may.

5. In view thereof, the petition is disposed of as the impugned order is worked out. The Collector is requested to decide the proceedings along with application made by the petitioner on 28.2.2017 within three weeks from production of the authenticated copy of this order. Till such time the Collector decides the proceeding, respondent No.1 shall not create further third party interest. It is made clear that I have not examined the merits of the case. All contentions of the parties on merits are expressly kept open.

(R. G. KETKAR, J.)