IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12741 OF 2015

Aminabi Abdul Kadir Shaikh	…	Petitioner
Vs.		
The Managing Director, CIDCO and others	…	Respondents

Mr. P. M. Arjunwadkar for Petitioner.
Mr. Pankaj J. Das for Respondent No.1.
Mr. Sachin Kankal, AGP for Respondent No.2-State.

CORAM : R. G. KETKAR, J.
DATE : FEBRUARY 09, 2017

P.C. :

Heard Mr. Arjunwadkar, learned Counsel for petitioner, Mr. Das, learned Counsel for respondent No.1 and Mr. Kankal, learned AGP for respondent No.2-State at length. On the oral application made by Mr. Arjunwadkar, leave to delete respondents No.3 to 6 is granted. Amendment shall be carried out forthwith. Rule. Learned Counsel for the respective respondents waive service. Having regard to the narrow controversy raised in the Petition as also at the request and by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

2. By this Petition under Article 227 of the Constitution of India, petitioner has challenged the judgment and order dated 10.12.2015 passed by the learned Civil Judge, Senior Division, Panvel below exhibit-89 in Regular Civil Suit No.154 of 2005. By that order, the learned trial Judge has rejected the application made by the plaintiffs calling upon respondent No.1 to produce minutes of meeting dated 03.10.1994.

3. Mr. Arjunwadkar invited my attention to the Suit instituted by the petitioner and others against respondents No.1 and 2 herein inter alia for mandatory injunction restraining respondents No.1 and 2 from dispossessing plaintiffs from the suit property without following due procedure of law as also without allotting alternate accommodation among other prayers. He submitted that plaintiffs' evidence was over. Plaintiffs were under bonafide impression that respondent No.1 will examine witnesses and produce documents. However, respondents filed Purshis submitting that it does not want to lead evidence. Plaintiffs thereafter filed application exhibit-89 for directing defendant No.1 to produce the minutes of meeting as also original documents produced in the meeting dated 03.10.1994. By the impugned order, the learned trial Judge rejected the application. He, therefore, submitted that application exhibit-89 may be allowed.

4. On the other hand, Mr. Das supported the impugned order. He submitted that on behalf of the respondent No.1, written statement is filed. In paragraphs 7 and 8, it is contended that respondents No.1 and 2 have not acquired the property from the plaintiffs. Land is acquired from the original owners and the plaintiffs are not the original owners. Plaintiffs are also not the project affected persons. As the CIDCO and Government have not acquired the property from plaintiffs, they are not entitled to claim any compensation. He further submitted that in the order dated 22.09.2015, below exhibit-6, in paragraph 4, the learned trial Judge has observed that plaintiffs have obtained certified copy of the minutes of the meeting dated 03.10.1994 and plaintiffs are at liberty to produce the certified copy in the trial Court. He further submitted that as the evidence is closed, the learned trial Judge may be directed to admit certified copy in evidence and mark it as 'exhibit' and thereafter proceed with the matter without recording further evidence.

5. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. It has come on record that the recording of evidence is over. In view thereof, plaintiffs shall produce certified copy of minutes of meeting dated 03.10.1994 n the trial Court. The learned trial Judge will admit that document in evidence and mark it as exhibit. The parties agree that they will not lead further evidence. In view thereof, the learned trial Judge will proceed with the arguments of the parties. All contentions of the parties on merits are expressly kept open. Impugned order is accordingly modified. Rule is made absolute in the aforesaid terms with no order as to costs.

(R. G. KETKAR, J.)

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