

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION No. 4422/2012.

Gopal Vitthalrao Bhoyar and others.

-VERSUS-

State of Maharashtra and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

CORAM : B. P. DHARMADHIKARI
AND ROHIT B. DEO, JJ.

DATE : JULY 26, 2017.

We have heard Shri S.P. Bhandarkar, learned counsel for the petitioners, Shri A.A. Madiwale, learned A.G.P. for respondent nos. 1A, 1B to 7 and 17, Shri M.I. Dhattrak, learned Counsel for respondent no.8, Shri S.R. Deshpande, learned Counsel for respondent nos. 12 and 14, Mrs. Raskar, learned Counsel for respondent nos. 13 and 15 and Shri R.J. Mirza, learned Counsel for respondent nos. 9 to 11, at some length.

2. Dispute is in relation to a land having D.P. Reservation for Shopping Complex since 1984. Submission is, that land is property leased out by the

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State Government and therefore, could not have been sold. The first sale by respondent no.16 of this land is in the year 2003 and subsequent sales are in the year 2010. The subsequent purchasers are also party before this Court. This Writ Petition is filed on 30.06.2012.

3. Perusal of the order of this Court dated 19.10.2012 shows that cognizance has not been taken in public interest. Later order shows that petitioners have been asked to deposit an amount of Rs. 1 lakh to show their bonafides. Accordingly the said amount has been deposited.

4. According to petitioners, their efforts to obtain copy of lease deed by which the State Government leased out the land to original owner [title holder], deceased respondent no.16, has failed. It is claimed that lease may be of the year 1897 or 1887. However, petitioners rely upon the statement made on affidavit by legal heirs of respondent no.16 that the property could not have been sold.

5. None of the parties have produced before this Court copy of the lease deed.

6. The learned counsel for petitioners submits that efforts made by petitioners to procure information has failed. He claims that the land was leased out

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specifically for the purpose of establishing a Ginning and Pressing Mill.

7. Learned A.G.P. submits that copy of the lease deed is not annexed along with the reply affidavit.

8. The learned counsel for respondents submit that burden was upon petitioners and they have not placed necessary documents on record.

9. If there was a lease deed way back in 1897, obviously it has to be by way of a registered document, and appropriate records may be available with the authorities.

10. The matter is pending with this Court since last 5 years for admission. The question is – Whether by selling subject land un-authorisedly any loss has been caused to public revenue ? It is not in dispute that at present commercial complex have already come up on that land. Thus, third party interest is already created.

11. In this situation, we direct the respondent nos. 1A, 1B and 2 to immediately provide certified copy of lease deed to petitioners. Petitioners to apply for that copy within a period of one week and respondents to supply the said copy to them within

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next three weeks. Petitioner can also ask for copy of Index-II Register along with certified copy of the lease deed.

12. We keep all contentions of petitioners open and with liberty to them to approach again after receipt of information, if occasion therefor arise, we dispose of the present Petition.

13. The amount in deposit shall be returned to the petitioners with interest accrued upon it.

JUDGE

JUDGE

Rgd.