

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 582 OF 2017

Ahmed Ali Hussain Ali Siddiqui .. **Petitioner**
Versus
Raosaheb Ramrao Ghavate and others .. **Respondents**

Mr. Faruk V. Patel, Advocate for the Petitioner.
Mr. Gopal C. Navandar, Advocate for Respondent
Nos. 1 and 2.
Mr. Babasaheb A. Dhengle, Advocate for Respondent
No. 3.
Mr. P. K. Lakhotiya, A.G.P. for Respondent Nos. 4
to 7.

CORAM: S. V. GANGAPURWALA, J.

DATE: 16th August, 2018

PER COURT :

1. The dispute is with regard to the mutation entry. The Revision filed by the petitioner is dismissed. The Second Appeal filed under Section 247 of the Maharashtra Land Revenue Code, 1966 was also dismissed.

2. I have heard the learned counsel for the petitioner. The learned counsel submits that when the sale deed in favour of the petitioner is executed at no point of time there was

encumbrance on the property nor the Bank sold the property in favour of respondent no. 1. The petitioner was not aware of any order of attachment on the same. The property which the petitioner has purchased was never mortgaged to the respondent – Bank. The petitioner is a bonafide purchaser.

3. The learned counsel for the respondent – Bank submits that the property was attached with the respondent – Bank pursuant to the recovery certificate obtained by the respondent – Bank against respondent no. 3 and thereafter through public auction the same is sold.

4. It appears that the sale deed in favour of the petitioner is prior in point of time. However, from the proclamation it appears that the property was attached on 28.03.2006. Once the property is attached the same cannot be subject matter of sale. Even otherwise, the mutation entry does not confer any title or right in favour of

the party. It appears that unless the attachment and sell in favour of respondent no. 3 is set aside the mutation entry cannot be effectuated as contended by the petitioner.

5. If the petitioner has any other remedy available, the petitioner may invoke the said remedy. Writ Petition is disposed of. No costs.

[S. V. GANGAPURWALA, J.]

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