

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.**

PUBLIC INTEREST LITIGATION NO. 123 OF 2018

Shaikh Manjur Shaikh Chand

Petitioner...

Versus

The State of Maharashtra & Ors.

Respondents...

.....
Mr Sharad S. Solanke, Advocate for the petitioner
Mr S. Y. Mahajan, AGP for respondent/State
.....

**CORAM : PRASANNA B. VARALE &
MANISH PITALE, JJ.**

DATE : 06TH OCTOBER, 2018.

ORAL ORDER :-

1. On hearing Mr Sharad S. Solanke, the learned counsel for the petitioner at length, he seeks adjournment. We would not have rejected the prayer for adjournment but, considering the peculiar facts, we are not inclined to accept the prayer for adjournment on two grounds namely, the instant PIL is circulated by claiming urgency when there was no real urgency in the matter and on perusal of the grievance raised in the PIL and the documents annexed thereto, we are of the opinion that, the PIL is devoid of merits.

2. The petitioner claims to be a social worker and it is submitted before us that the petitioner is an elected member of Municipal Council at Majalgaon, Tq. Majalgaon, Dist. Beed. The

prayer clause 'B', whereby the petitioner seeks directions against respondent/authority to take action against respondent Nos. 7 to 9, reads as under:

B] Issue writ of mandamus or any other writ, order or direction in the nature of writ of mandamus, directing the respondent no. 2 to hold a detail inquiry into the affairs of the respondent no.7 to 9 in respect of the permission obtained from respondent no.3 of land Gut No. 18 area 1 H. 70 R land and mutate their name in Gram Panchayat, Property Tax Registered at Walkeshwar Tq. Ambad Dist. Jalna as well as sale transaction making by respondent no.7 to 9 in the office of respondent no.5 and stern action against the respondent no. 7 to 9 in the nature of cancellation of the permission issued for sale occupant class II land as well as cancellation of sale deed in favor of respondent no.7 to 9 and for that purpose issue necessary orders.

3. Mr Solanke, learned counsel for the petitioner vehemently submitted that, in spite of presenting certain representations to the Collector, Jalna, thereby bringing his notice about the mischief played by respondents No. 7, 8 and 9, he paid no heed to the same. Respondent No. 7, 8 and 9 are the private parties. He has invited our attention to the representation made to the Collector dt. 11.07.2018, copy of which is placed on record at Exh. 'G'. The grievance of the petitioner is that, respondents No. 7, 8 and 9 are the holders of land as occupant class-II and the respondents No. 7, 8 and 9 being the occupiers of land class-II, could not have been permitted to sell the lands given to them. It was also submitted before us that, while seeking permission from the authority, respondents No. 7, 8 and 9

have deposited lesser amount than what is required to be deposited in the Govt. Treasury. The ld. counsel also submitted, that respondents No. 7, 8 and 9 in connivance of the Village Revenue Authorities played mischief and cheated the Government, which covers criminal act allegedly committed by these respondents. Insofar as the grievance of the petitioner that respondents No. 7, 8 and 9 committed certain mischief which covers offence under the provisions of Indian Penal Code, the petitioner is certainly at liberty to take recourse to the remedy available to him including approaching the competent forum by setting criminal law in motion. Admittedly, this is not done by the petitioner.

4. Mr Solanke, learned counsel for the petitioner, then invited our attention to the order passed by Dy. Collector, Jalna on 10.10.2013, which is placed on record at page 42. Perusal of the said order shows, respondents No. 7, 8 and 9 had approached the revenue authority seeking permission to sell the agricultural land. Perusal of the order further clearly shows that, while tendering the applications these respondents submitted the necessary documents to the office of the Collector. The said order also states that, on receipt of said applications, the public proclamation was issued calling upon the objections. It seems that, there was no such objection raised. The said order also states about the respondents No. 7 to 9 having

deposited an amount of Rs. 4,48,000/- as 50% of the amount of valuation of the land by way of Najrana to the State Government. Copy of the challan was also annexed to the application. Considering these documents and the relevant provision, the Dy. Collector, Jalna passed an order dt. 10.10.2013. It was also the submission of learned counsel for the petitioner that the deposit of amount by way of Najrana is also lesser than what is required to be deposited by these respondents. In support of this submission the learned counsel for the petitioner also invited our attention to a copy of circular dt. 25.08.1983 annexed to the petition at Exh.E. He places reliance on sub-clause (1) of clause 2 thereof, to submit that the prerequisite is of deposit of 75%. Though this submission of Mr Solanke looks attractive at first blush, but we are unable to accept this submission because it is only a partial reading of the circular and the circular states that, in the cases where the lands are situated other than the towns and city areas, the holder (alienor) shall pay to Government an amount equal to 50 per cent of the net unearned income i.e. 50 per cent of the difference between the market value or the price realised by way of sale whichever is higher and this condition of 75% amount under clause 2 of the said circular is for the lands within the limits of towns and cities and the object is also specified that there is a speedy urbanisation. As such, the State Government in its wisdom though it fit to grant the permission by directing the party to deposit 75% of

the amount. Now, the land against which the petitioner is having grievance is certainly not situated either in town or city. As such, this objection raised by the petitioner holds no merit.

5. The petitioner has also placed on record copies of certain sale deeds entered into between respondents No. 7 to 9 and others. If the petitioner has placed on record the said documents, he ought to have substantiated the petition by reasons and grounds. If these documents were having any relevance to the grievance raised in the petition, the petitioner ought to have made other parties to the sale deeds as party-respondent to the instant PIL, which is also not done.

6. Considering all the aforesaid aspects, we are of clear opinion that, the PIL is devoid of merits and same stands dismissed in limine.

[MANISH PITALE]
JUDGE

[PRASANNA B. VARALE]
JUDGE