

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 10755 OF 2015

Sou. Damayanti Damodar Sankhe }	
and Anr. }	Petitioners
versus	
State of Maharashtra and Ors. }	Respondents

Mr. Vipin Kamdi for the petitioners.

Mr. A. I. Patel-Additional Government
Pleader for the State.

**CORAM :- S. C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.**

DATE :- FEBRUARY 14, 2018

P.C. :-

1. Heard Mr. Kamdi appearing for the petitioner.
2. The petitioners claim to be the owners of Gut No. 120 (part of Survey No. 76) admeasuring 44 gunthas. The land was allotted to the ancestors Damodar Laxman Sankhe by the Government of Maharashtra way back in 1951 for agricultural purposes. The petitioners claim to be cultivating this land along with part of Gut No. 121 at Morekuran, taluka and district Palghar since the year 1952 being a piece of land adjacent to their ownership land.

3. The respondents are the authorities under the Maharashtra Land Revenue Code, 1966 and the fourth respondent is the *Sarpanch* of village panchayat. The petitioners rely upon an order dated 28th March, 2014 in Public Interest Litigation No. 204 of 2010 (*R. V. Bhuskute vs. State of Maharashtra*) and certain notifications. The petitioners allege that they made an application on 20th January, 2001 to allot the land under cultivation, namely Gut No. 121 admeasuring 80 gunthas. Pertinently, this is not the land traceable to Mr. Damodar Sankhe. This is a land styled as “the said land in question” adjacent to the land of Sankhe. The petitioners state that this application was forwarded by the Tahsildar to the Circle Officer. The necessary procedure was completed. It is stated that Mr. Damodar and Damayanti are husband wife. They married in 1967 and since then, they are in continued cultivation and possession of the land in question. After relying upon certain reports, it is stated that the Grampanchayat initially issued a no-objection certificate dated 3rd December, 2002 and 1st January, 2015 for regularising the cultivation of the petitioners in respect of this land. Annexure 'C' is a copy of the said document. There is a *gram sabha* resolution as well.

4. Then, the petitioners rely upon an order passed in a public interest litigation and claim that based on that order, another application in appropriate format was made on 2nd January, 2015 and which was followed up by reminders.

5. It is evident and on the petitioners' showing themselves that pending this application of 2015, a complaint was lodged against petitioner no. 1 for trespassing on the land in question. That was converted in to a FIR/C. R. No. 91 of 2015. There was no name of the petitioners' earlier, but subsequently, while registering the FIR, the name of petitioner no. 1 was inserted as an accused. This FIR is due to some vested interest of the villagers and that is how it is apprehended that the petitioners' claim would be frustrated. Then, it is stated that some unknown persons destroyed the compound of the land in question in March, 2015. That is how an application was made on 2nd May, 2015 to the Tahsildar. The land in question was numbered as Survey No. 9 before gut numbers came to be allotted. The total area was around 20 acres, which was subsequently renumbered as Gut No. 121 admeasuring 20 acres. The petitioner came to be in occupation, cultivation and possession of 80 gunthas out of this Survey No. 121 and it is claimed that this land was a private land. Reliance is placed on 7X12 extract in this behalf. This land is not a grazing land, but

belonging to one Mr. Bharucha, a private party. It was being used for cutting of grass for feeding farm animals of the Dairy Department. Thus, the Grampanchayat is now trying to usurp this land, but contrary to the earlier position.

6. When we perused the petition with the annexures, we are clear in our mind that the petitioner can derive no benefit of the order passed in the public interest litigation. If the PIL petitioners took up the cause of those, who suffered because they were illiterate though honestly cultivating the agricultural land and sustaining themselves by such cultivation, then, that PIL and the order therein is restricted to those genuine persons and covered by the Government policies.

7. We have a person here, namely, the petitioners, who claim right, title and interest in private land. On their own showing, they have been accused of trespass on this land in Gut No. 121. On their own showing, during the intervening period from January, 2001 to the subsequent application dated 2nd January, 2015, the Grampanchayat has been successful in entering its name in the Revenue records. In these circumstances, if the title of the land vests in a private party, namely, Mr. Bharucha and the petitioners are claiming a right therein through Mr. Bharucha, then, they must assert that right by filing a civil suit in a

competent civil court. Merely because some application is dropped in, we cannot direct the authorities to consider it and dispose it of in accordance with law. It is the fault of the petitioners entirely for they did not assert their right, title and interest in the land for several decades, though allegedly in possession and cultivation of the same since, 1952.

8. For the aforesaid reasons, the writ petition is entirely misconceived and it is dismissed.

(SMT. BHARATI H. DANGRE, J.)

(S.C.DHARMADHIKARI, J.)