

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1246 OF 2010

Hotel Empire Ltd. & Anr.

...Petitioners

Vs.

Her Highness Rajdadiji Smt.Badan

Kanwar Medical Trust & Ors.

...Respondents

Mr.K.R. Bulchandani with Anoop Sharma, Avik Sarkar and Amit D. Nikam
for Petitioners.

Mr.Ravi Kadam, Senior Advocate with Ashish Kamat, Hemlata jain, Rohan
Kadam and Sanidha Vedpathak I/b. Maneksha & Sethna for Respondent
Nos.1 and 2.

Ms.Geeta Shastri, Addl.GP. for Respondent Nos.3 and 4.

CORAM : S.C. GUPTE, J.

DATE : 18 APRIL 2018

P.C. :

Heard learned Counsel for the parties.

2 This petition challenges orders passed by revenue authorities concerning a certain portion of land described as foreshore land (CTS No.567/2011). By an order passed by the Collector, Mumbai Suburban District, transfer of leasehold rights with reference to this foreshore land as between the original holders and Respondent No.2 herein was regularised on payment of a premium. On the Petitioner's objections to this regularisation, the collector passed an order on 31 May 2008 upholding the transfer of foreshore land and recovery of unearned income vide the earlier order passed by the collector. The Petitioners' appeal from this order was rejected by the Additional Commissioner, Kokan Division. These orders are

challenged in the present petition. Originally the foreshore land was granted by the State to the original holders, namely, Maharaja of Jodhpur, on account of the latter's ownership of a private land, bearing Survey No.728(part), CTS No.561/11 abutting it. (Respondent No.1 herein is the successor of the Maharaja.) The private land was leased by the Maharaja to the Petitioners herein. This lease was agreed to be assigned by the Petitioners to Respondent No.2. There arose disputes between the Petitioners and Respondent No.2 concerning this agreement and the right of the latter to use and occupy the private land. Pending those dispute reversionary rights of the Maharaja in the private land, which stood settled upon trust in favour of Respondent No.1 herein, were transferred to Respondent No.2. Respondent No.2 is claiming transfer of the foreshore land as the owner of the private land. The rights of Respondent No.2 to the ownership and possession of the private land through the transaction between the original holders and Respondent No.2 herein is the subject matter of challenge in a suit filed by the Petitioners herein before this court, namely, suit No. 3085/1985. This suit is tagged on to Suit No.2841/1987 filed by Respondent No.2 herein against the Petitioners.

3 After the matter is heard at some length, it is agreed between the Petitioners and Respondent No.2 that the writ petition can be disposed of by reserving liberty unto the Petitioners herein to apply to the State Government for cancellation of the regularisation order passed in favour of Respondent No.2 herein and to apply for lease of the foreshore land from the State Government as per the policy of the State after seeking a favourable order from this court in the pending suits cancelling the transaction between the original lessees of the foreshore land and Respondent no.2 herein. It is ordered accordingly.

4 All rights and contentions of the parties on merits in this behalf are kept open, to be agitated before the court in the pending suits and before the Government as a result of any decision in the pending suits. Liberty to apply.

(S.C. GUPTE, J.)