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

CHAMBER SUMMONS NO.131 OF 2017
IN
WRIT PETITION NO.466 OF 2017

Jayesh S. Kotak .... Applicant

In the matter between

Gold Plaza Developers Pvt. Ltd. & Anr. .... Petitioners

Vs.

The State of Maharashtra & Ors. .... Respondents

Mr. Jayesh S. Kotak, the Applicant, present in-person.
Mr. Prasad Dani, Senior Counsel with Ms Neeta Solanki
i/by Kiran Jain & Co. for the Petitioners.
Ms Jyoti Chavan, AGP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.

DATE : MARCH 08, 2018

P.C:

1. The petitioners are seeking the following two reliefs:-

> "*(a) That this Hon'ble court be pleased to call for from the Respondents to produce all records, files, papers and decisions taken by the Respondents in the matter of and examine leading to the Report dated 4/8/2016 (Exhibit*

JJ to this Petition) submitted by the Respondent No.2 to the Respondent No.1 and to quash and set aside the same by the issuance of a writ of certiorari or other appropriate writ, direction or order;

(b) That this Hon'ble court be pleased to call for from the Respondents to produce all records, files, papers and decisions taken by the Respondents in the matter of and examine leading to the issuance of the direction contained in the notice 15/1/2013 (Exhibit U to this Petition) by the Respondent No.2 and the Appeal filed before the Maharashtra Revenue Tribunal bearing No.API/TNC.Mumb.No.41/2013 and order dated 29/1/2013 (Exhibit V to this Petition) and to quash and set aside the same by the issuance of a writ of certiorari or other appropriate writ, direction or order;"

2. The petitioners are also seeking a direction to restrain the respondents from cancelling the lease with regard to a portion of the land/property, more particularly described in prayer clauses (c) to (f) of the petition.

3. To such a writ petition, the Government of Maharashtra and through the Department of Revenue and Forests and the District Collector, Mumbai City have been impleaded as the respondents.

4. The present chamber summons is moved by a private party - Mr. Jayesh S. Kotak. His request is that this Court should

direct the petitioners to implead him as respondent No.3 in this writ petition.

5. It is this chamber summons which was on our board, we have heard Mr. Kotak, appearing in person. After identifying himself, he has urged that in the affidavit in support he has brought on record his efforts and complaints which led to the Government initiating the necessary steps and action against the petitioners. There were several complaints made in writing by him which led to the report being forwarded for necessary action of the superiors in the Department of Revenue and Forests, Government of Maharashtra, including the District Collector. If he is impleaded as respondent No.3, he would assist the Court by pointing out as to how a valuable piece or parcel of land has been usurped and in a fraudulent manner by the petitioners, particularly in collusion with the authorities.

6. It is urged by him that the inquiry against the petitioners was on his complaints, dated 23-11-2011 and 23-12-2011. That inquiry is still incomplete. The present petition

is, therefore, premature. The other ground on which he should be made party is that the question relating to right, title or interest in the property of the Government which is fraudulently transferred, can be adjudicated only in his presence. He says that he is a necessary party to the petition.

7. It is repeated that he has lodged complaints against the fraudulent transfer of the Government land by the petitioners and he has detail knowledge of this fraud.

8. After hearing him at some length and perusing with his assistance the chamber summons so also the affidavit in support and the annexures thereto, we are not convinced that his presence is necessary for adjudication of the disputes raised in the petition.

9. The petitioners have impleaded the State of Maharashtra and the Collector of District Mumbai as party respondents for the Collector is the superior authority in terms of the Maharashtra Land Revenue Code, 1966, particularly while allotting Government lands. It is he who has sought to redress

the grievances of a vigilant person like the applicant and by issuing notices and the demands, as impugned in the petition. We have no doubt that the Collector and equally the Department of Revenue and Forests would stoutly and strongly defend their actions. With their presence and assistance, we would be resolving the issue, if any, raised in the petition.

10. We do not think, therefore, that the impleadment of the applicant as respondent No.3 is necessary, nor can we thrust him upon the petitioners for eventually it is found that he is a necessary party, it is the petitioners who will run the risk of not impleading him.

11. For the aforesaid reasons, we find that the chamber summons is entirely misconceived. It is dismissed.

(PRAKASH D. NAIK, J.) (S.C. DHARMADHIKARI, J.)