

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.9814 OF 2019

Satish Nanasaheb Jadhav

Petitioner

Versus

Maharashtra Housing and Area
Development Corporation (MHADA),
Aurangabad & others

Respondents

Mr.Saeed S. Shaikh, advocate for the petitioners.

Mrs.Sanghmitra Wadmare (Chavan), advocate for Respondents
No.1 & 2.

CORAM : RAVINDRA V. GHUGE, J.

DATE : 07th August, 2019

PER COURT:

1 The petitioner is aggrieved by the concurrent findings of the trial Court dated 03.01.2019 and by the first appellate Court dated 18.02.2019, by which temporary injunction has been refused to the petitioner - plaintiff on the ground that *prima facie* he appears to be an encroacher.

2 The learned advocate for the petitioner - plaintiff has canvassed a host of factors. He draws my attention to the 15 grounds formulated in the memorandum of the petition. He has drawn my attention to the corrected 7/12 extract, the Court

Commissioner's report and the map which was before the trial Court and the first appellate Court for perusal.

3 Notwithstanding the strenuous submissions of the learned advocate for the petitioner, the record which was before both the Courts reveals that the predecessor in title, of the petitioner, namely Sultana had 0.00.01 hectare (100 square meters) (1067 square feet) area in her name. She executed a sale deed in favour of the petitioner through her power of attorney holder and indicated that she had sold 1200 square feet area to the petitioner. The petitioner is, therefore, labouring under the impression that he is the possessor of 1200 square feet area.

4 The record further reveals that as the Government allotted a larger portion of the land to Dhammakaya Magaswargiya Sahakari Griha Nirman Sanstha to the extent of 1 hectare out of land G.No.86, under the orders of this Court passed in Writ Petition No.9405 of 2011, the State Government realised that there were several encroachers. The State Government, therefore, initiated action and on the basis of the revenue records available, the petitioner finds some portion of his land being a part of such encroachment.

5 Both the Courts below have arrived at a *prima facie* conclusion that the petitioner is an encroacher. The map of the Court Commissioner as well as the joint measurement carried out *prima facie* indicate that there is an encroachment on the part of the petitioner to the extent of 14 square meters.

6 The petitioner now desires to place reliance on a corrected 7/12 extract. Even considering the said extract, I do not find that the share of Sultana, which was earlier shown to be 0.00.01 hectare, has been altered. Even now, it remains the same as 0.00.01 hectare.

7 In view of the above, I do not find that the impugned concurrent findings could be termed as being perverse or erroneous. This petition, being devoid of merit, is, therefore, dismissed.

RAVINDRA V. GHUGE
JUDGE

adb/