

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10801 OF 2019

CHANGDEV REVSING PARDESHI
VERSUS
MUKTABAI ANNASAHEB SHILOTE AND OTHERS

Mr.M.S.Shaikh, Advocate for the petitioner.
Mr.S.W.Munde, AGP for respondent No.6.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 30/08/2019

PER COURT :

1. The petitioner/original defendant No.1, who has filed a counter claim in RCS No.192/2017, is aggrieved by the order dated 08/08/2019 passed by the Trial Court, by which his application Exh.94 seeking an injunction to halt a National Public Project known as the “Samruddhi Highway Project”, has been rejected.

2. The grievance of the petitioner is that he is one of the 3 sons and 3 daughters of deceased Revsing Pardeshi. One of his sisters namely Muktabai has filed the suit. The petitioner and the other siblings are the defendants. The suit is for partition and separate possession. However, on 28/03/2018, the 3 sisters Ashabai, Janabai and Muktabai have entered into an agreement to sell with the

Maharashtra State Road Development Corporation through its Authorized Officer and Gat Nos. 297/1 and 241 have been sold. Another sale deed was entered into on 19/04/2018 between one brother Sopan and the Maharashtra State Road Development Corporation, wherein the same Gat Numbers are sold. A similar sale deed was also entered into by Nivrutti with MSRTC in which the same gat numbers are sold. Specific measurements of the parcels of land sold by the 2 brothers and the 3 sisters in these 3 sale deeds are also mentioned.

3. Having considered the strenuous submissions of the learned Advocate for the petitioner and having gone through the grounds formulated in the memo of the petition, I find that the Trial Court was right in recording that an amendment was introduced in the form of Section 20(A) in the specific Relief (Amendment) Act, 2018. By a bill to introduce the said amendment, it was intended by the Legislature that there would be no injunctory orders in infrastructure and national public projects. The types of projects as well as the infrastructure sub sections are also enshrined in the Amendment Act. Moreover, the Hon'ble Apex Court has taken a view in the matters of Mahadeo Savlaram Shelke and others Vs. Pune Municipal Corporation and another [(1995) 3 SCC 33] and Shiv Kumar Chadha

Vs. Municipal Corporation of Delhi and others [(1993) 3 SCC 161]

that the Courts should not grant injunctory orders in public projects, except in rarest or rare circumstances.

4. In view of the above, I do not find that the impugned order could be termed as being perverse or erroneous. Moreover, the claim of the petitioner to a particular portion of the land in the gat numbers 297/1 and 241 mentioned in the 3 sale deeds, would be considered by the Trial Court and eventually, effective orders could be passed, if the share of the petitioner is sustained. So also, considering that the litigants before the Trial Court are real biological sisters and brothers, the Trial Court would also consider referring the matter to a trained mediator for resolving the dispute amongst the siblings. The petitioner would therefore be at liberty to make a request to the Trial Court to refer the matter to the Mediator.

5. This petition is, therefore, disposed off. In the event any issue of apportionment of compensation arises u/s 3-H(4) of the National Highways Act, the petitioner would have a right to approach the competent authorities for setting forth his claim.

(Ravindra V.Ghuge, J.)